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Bill Analysis
Legislative Service Commission

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(Part One: Analysis of the License Suspensions, Driving Privileges,
and Related Portions of the Bill)

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BILL SUMMARY

- Creates a new chapter of the Revised Code governing suspensions of a driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege and relocates procedures for suspensions to that chapter, including the provisions related to suspending a driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege based on the accumulation of points on a person's driving record.
- Reorganizes and relocates both judicial and administrative suspensions of a driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from a consolidated suspension section to the section of law establishing the criminal prohibition.
- Assigns judicial suspensions a numerical classifications code ranging from Class 1 to Class 7 and administrative suspensions an alphabetical code ranging from Class A to Class F.
- Eliminates license revocations and replaces them with license suspensions or cancellations.
- Expands the concept of occupational driving privileges that may be granted during the time a driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege is suspended by renaming the privileges as "limited driving privileges" and including within its scope, occupational, educational, vocational, or medical purposes, taking the driver's or

commercial driver's license examination, attending court-ordered treatment, and other reasonable purposes specified by a court.

- Generally allows driving privileges for court-imposed suspensions if not prohibited by statute and allows privileges for administrative suspensions only if allowed by statute and granted by a court.
- Reduces failure to reinstate a suspended license from a first degree misdemeanor to a third degree misdemeanor and prohibits any court from imposing a suspension for failure to reinstate a suspended license.
- Increases the misdemeanor penalty for operating a motor vehicle without a valid license.
- Eliminates license suspensions imposed on a person who violates a requirement or prohibition of the court concerning occupational driving privileges or a condition of probation granted for an OMVI violation.
- Relocates the current offense of "driving under OMVI suspension or revocation," includes within the offense the current prohibition against operating a vehicle while under a Vehicle Implied Consent Law suspension, renames the offense as "driving under OVI suspension," expands and modifies some of its elements, extends to six years the "look back" period used in determining the sentence for the offense, enacts a new sentencing structure for the offense, specifies that the existing vehicle immobilization, impoundment, and forfeiture provisions apply only if the involved vehicle is registered in the offender's name, relocates the pretrial vehicle seizure and retention provisions and modifies the procedures to conform them to the vehicle immobilization, impoundment, and forfeiture provision changes.
- Requires immobilization of a vehicle involved in a driving under suspension violation and impoundment of the vehicle's license plates if the vehicle is registered in the offender's name and requires the criminal forfeiture of such a vehicle on a third offense of driving under suspension.
- Eliminates the license suspension for: (1) perjury or the making of a false affidavit under the Driver's Licensing Law, or any other law of this state requiring the registration of motor vehicles or regulating their operation on the highway, (2) any crime punishable as a felony under the motor vehicle

laws of this state or any other felony in the commission of which a motor vehicle is used, and (3) trafficking in cigarettes with the intent to avoid payment of the cigarette tax.

- Eliminates the prohibition against operating any motor vehicle in violation of any restriction of the person's driver's or commercial driver's license related to the licensee's driving ability.
- Eliminates the assessment of points for (1) unauthorized use of a motor vehicle, (2) any crime punishable as a felony under the motor vehicle laws, and (3) any other felony in the commission of which a motor vehicle was used.
- Revises the assessment of points for speed limit violations, with zero points being assessed when the speed does not exceed the lawful speed limit by more than five miles per hour.
- Allows a court to require a person whose license has been suspended by the court to successfully complete a remedial driving course as a condition for the return of full driving privileges after the suspension ends.
- Requires the immobilization of a vehicle involved in a driving under suspension offense if the vehicle belongs to the offender.
- Reduces failure to reinstate a suspended license from a first degree misdemeanor to a third degree misdemeanor and eliminates the permissive license suspension for failure to reinstate a suspended license by specifically prohibiting any court from imposing a suspension for the offense.

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CONTENT AND OPERATION

Overview

Part One of this analysis addresses license suspensions and related issues. Part Two addresses operating a vehicle under the influence, implied consent, wrongful entrustment, vehicular homicide and assault, watercraft OMVI, and related issues. Part Three addresses changes to speed limit law, arrest and bond law, commercial driver's licenses, driving schools, relocation of penalties, and miscellaneous changes.

In regard to suspensions, the bill generally reorganizes and relocates both judicial and administrative procedures for suspending a driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege. The procedures, prohibitions, and general provisions relating to license suspensions are relocated to a new chapter of the Revised Code, Chapter 4510. The suspensions are assigned a classification code; judicial suspensions are given a numerical classifications code ranging from Class 1 to Class 7, and administrative suspensions are given an alphabetical code ranging from Class A to Class F. The class of suspension required upon violation of a specific prohibition generally is relocated to the section of the Revised Code establishing the violation. For a comparison of the length of a suspension of a person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege under existing law and under the bill, see the accompanying chart in the Appendix. The bill eliminates license revocations and replaces them with license suspensions or cancellations.

Operation without a valid license

Under existing law and the bill, no person, unless expressly exempted under law unaffected by the bill, may do either of the following:

(1) Operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this state unless the person has a valid driver's license or a commercial driver's license (R.C. 4507.02(A)(1));

(2) Operate any motorcycle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this state unless the person has a valid license as a motorcycle operator that was issued by the Registrar. The license as a motorcycle operator must be in the form of an endorsement upon a driver's or commercial driver's license if the person has a valid license to operate a motor vehicle or commercial motor vehicle or in the form of a restricted license if the person does not have a valid license to operate a motor vehicle or commercial motor vehicle. (R.C. 4507.02(A)(3).)

Under existing law, whoever violates either of the above requirements to have a valid license by operating a motor vehicle when the person's driver's or commercial driver's license has been expired for no more than six months is guilty of a minor misdemeanor (R.C. 4507.99(D)).

The bill retains but relocates these two provisions requiring possession of a valid driver's license to operate a motor vehicle in Ohio or a motorcycle endorsement to operate a motorcycle in Ohio (R.C. 4510.12(A)(1) and (2)). The bill specifically designates a violation of either prohibition as the offense of "operating a motor vehicle without a valid license." The bill imposes a graduated penalty, depending on the length of time the license has been expired and whether the person has previous violations for operating a motor vehicle without a valid license. Under the bill, whoever is guilty of operating a motor vehicle without a valid license is punished as follows (R.C. 4510.12(B)):

(1) If the offender's driver's or commercial driver's license or permit was expired at the time of the offense for no more than six months, the offense is a minor misdemeanor.

(2) If the license or permit was expired at the time of the offense for more than six months, the offense is a misdemeanor of the fourth degree.

(3) If the offender previously was convicted of or pleaded guilty to one violation of operating a motor vehicle without a valid license within the past three years, the offense is a misdemeanor of the third degree.

(4) If the offender previously was convicted of or pleaded guilty to two violations of operating a motor vehicle without a valid license within the past three years, the offense is a misdemeanor of the second degree.

(5) If the offender previously was convicted of or pleaded guilty to three or more violations of operating a motor vehicle without a valid license within the past three years, the offense is a misdemeanor of the first degree.

If the offender was convicted of or pleaded guilty to one or more violations of operating a motor vehicle without a valid license within the past three years, and if the offender's license was expired for more than six months at the time of the offense, the bill requires the court to impose a Class 6 (a definite period not to exceed one year) suspension of the offender's license, permit, or privilege. The court may not impose a license suspension for a first violation of operating a motor vehicle without a valid license or if more than three years have passed since the offender's last violation of operating a motor vehicle without a valid license. (R.C. 4510.12(C) and (D) and 4510.02(A)(6).)

The bill eliminates a provision of existing law prohibiting any person from permitting the operation of a motor vehicle upon any public or private property used by the public for purposes of vehicular travel or parking knowing the operator does not have a valid driver's license issued to the operator by the Registrar or a valid commercial driver's license (existing R.C. 4507.02(A)(2)). (See, S.B. 176 analysis, Part Two: Wrongful Entrustment.)

The bill also eliminates a provision of existing law prohibiting any person from operating any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this state in violation of any restriction of the person's driver's or commercial driver's license related to the licensee's driving ability. Driving in violation of license restrictions is a first degree misdemeanor under existing law, and the court may suspend the person's driver's or commercial driver's license or permit or nonresident operating privilege for a period not to exceed one year. (Existing R.C. 4507.02(B)(2) and 4507.99(A).)

Classifications of suspensions

In general, the bill classifies suspensions and relocates the class of suspension required upon violation of a specific prohibition to the section of the Revised Code establishing the substantive offense. For a comparison of the length of a suspension of a person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege under existing law and under the bill, see the accompanying chart in the Appendix.

Judicial suspensions

Under the bill, when a court elects or is required to suspend the driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege of any offender, for each of the following suspension classes, the court must impose a definite period of suspension from the range specified for the suspension class (R.C. 4510.02(A)):

- (1) For a Class 1 suspension, a definite period of three years to life;
- (2) For a Class 2 suspension, a definite period of two to ten years;
- (3) For a Class 3 suspension, a definite period of one to five years;
- (4) For a Class 4 suspension, a definite period of six months to three years;
- (5) For a Class 5 suspension, a definite period of three months to two years;
- (6) For a Class 6 suspension, a definite period not to exceed one year;
- (7) For a Class 7 suspension, a definite period for the life of the person subject to the suspension.

In a new provision, the bill authorizes a court to require a person to successfully complete a remedial driving course as a condition for the return of full driving privileges after a suspension imposed by the court ends. (R.C. 4510.02(C).)

Administrative suspensions

When the Bureau of Motor Vehicles (BMV) elects or is required to suspend the driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege of any offender, the period of suspension must be as follows (R.C. 4510.02(B)):

- (1) For a Class A suspension, three years;
- (2) For a Class B suspension, two years;
- (3) For a Class C suspension, one year;
- (4) For a Class D suspension, six months;
- (5) For a Class E suspension, three months;

- (6) For a Class F suspension, until conditions are met.

Suspensions

General suspensions

Existing law. Under existing law, the trial judge of any court of record must suspend for not less than 30 days or more than three years or revoke the driver's or commercial driver's license or permit or nonresident operating privilege of any person who is convicted of or pleads guilty to any of the following (R.C. 4507.16(A)(1)(a) to (g)):

- (1) Perjury or the making of a false affidavit under the Driver's Licensing Law, or any other law of this state requiring the registration of motor vehicles or regulating their operation on the highway;

- (2) Any crime punishable as a felony under the motor vehicle laws of this state or any other felony in the commission of which a motor vehicle is used;

- (3) Failing to stop and disclose identity at the scene of the accident when required by law or ordinance to do so;

- (4) Street racing or any substantially similar municipal ordinance;

- (5) Willfully eluding or fleeing a police officer;

- (6) Trafficking in cigarettes with the intent to avoid payment of the cigarette tax;

- (7) Aggravated vehicular homicide, vehicular homicide, or aggravated vehicular assault or a municipal ordinance substantially similar to vehicular assault, unless the jury or judge as trier of fact in the case finds that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse at the time of the commission of the offense.

If a person is convicted of or pleads guilty to soliciting another to engage in sexual activity for hire, an attempt to commit such a violation, or a violation of or an attempt to commit a violation of a municipal ordinance that is substantially equivalent to that offense and if the person used a motor vehicle in the violation, the trial judge of a court of record must suspend the person's driver's or commercial driver's license or permit for 30 days. In addition to suspensions or revocations of licenses, permits, or privileges, and all other penalties provided by law or by ordinance, the trial judge of any court of record must impose a suspended jail sentence not to exceed six months, if imprisonment was not

imposed for the offense for which the person was convicted. (R.C. 4507.16(A)(1).)

Existing law prohibits any judge from suspending the first 30 days of a 30-day to three-year suspension of a driver's or commercial driver's license or permit or a nonresident operating privilege imposed for the violations described above (R.C. 4507.16(I)).

Existing law also authorizes a judge to issue an order prohibiting an offender from registering, renewing, or transferring the registration of any vehicle during the period that the offender's license, permit, or privilege is suspended or revoked, if the judge suspends or revokes the person's license, permit, or nonresident operating privilege under any of the above provisions. The court must promptly send a copy of the order to the Registrar. Upon receipt of such an order, neither the Registrar nor any deputy registrar may accept any application for the registration, registration renewal, or transfer of registration of any motor vehicle owned or leased by the person named in the order during the period that the person's license, permit, or privilege is suspended or revoked. When the period of suspension or revocation expires or if the Registrar is notified that the order is canceled, the Registrar or deputy registrar must accept the application for registration, registration renewal, or transfer of registration of the person named in the order. (R.C. 4507.16(A)(2).)

Under existing law, whenever any nonresident has been convicted of the offenses discussed above for which a license suspension may be imposed, or has forfeited bail to secure his appearance for trial, the clerk of court must forward to the Registrar a copy or transcript of the conviction or order forfeiture of bail (R.C. 4509.35). The Registrar must transmit a certified copy of the judgment, conviction, or order of bail forfeiture to the official in charge of licenses and registrations in the state that the defendant is from (R.C. 4509.36, not in the bill).

The bill. In general, the bill relocates the license, permit, or privilege suspension requirement from the consolidated section discussed above to the section of law establishing the criminal prohibition (R.C. 4507.16(A)(1)(c)(d), and (e) and (A)(1) and 4549.02, 4549.021, 4511.251, 2921.331, and 2907.24). The Appendix compares the length of a suspension under existing law and as reclassified and relocated by the bill. In addition to the reclassification and relocation discussed in the Appendix, the bill eliminates the license suspension for the following:

--Perjury or the making of a false affidavit under the Driver's Licensing Law, or any other law of this state requiring the registration of motor vehicles or regulating their operation on the highway (R.C. 4507.16(A)(1)(a));

--Any crime punishable as a felony under the motor vehicle laws of this state or any other felony in the commission of which a motor vehicle is used (R.C. 4507.16(A)(1)(b));

--Trafficking in cigarettes with the intent to avoid payment of the cigarette tax (R.C. 4507.16(A)(1) and 5743.99).

The bill also eliminates all of the following:

--The provision prohibiting any judge from suspending the first 30 days of a 30-day to three-year suspension of a driver's or commercial driver's license or permit or a nonresident operating privilege imposed for the violations described above (R.C. 4507.16(I));

--The requirement for a trial judge of any court of record to impose a suspended jail sentence not to exceed six months, if imprisonment was not imposed for the offense for which the person was convicted (R.C. 4507.16(A));

--The authority of a judge to issue an order prohibiting the offender from registering, renewing, or transferring the registration of any vehicle during the period that the offender's license, permit, or privilege is suspended or revoked (R.C. 4507.16(A)).

In regard to the requirement of existing law for the clerk of court to forward to the Registrar a copy or transcript of the conviction or order forfeiture of bail whenever any nonresident has been convicted of the offenses for which existing law requires a suspension or has forfeited bail to secure his appearance for trial, the bill replaces a specific reference to the listed offenses requiring suspension with a general reference to any offense for which the court may impose a license suspension (R.C. 4509.35).

See Part Two of the analysis for a detailed discussion of the changes made by the bill to the OMVI law (renamed OVI) and for the changes made to license suspensions that can be imposed for OVI. See the Appendix for a comparison of the length of an OVI suspension of a person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege under existing law and the bill.

Procedures related to license suspensions and revocations under R.C. 4507.16

License delivery

After a driver's or commercial driver's license or permit has been suspended or revoked under existing R.C. 4507.16, the judge of the court or mayor of the

mayor's court that suspended or revoked the license or permit must cause the offender to deliver the license or permit to the court. The judge, mayor, or clerk must forward the license or permit to the Registrar with notice of the action of the court. (R.C. 4507.16(H)(1).) The bill relocates this provision, generally retains existing law, removes the reference to license revocation, and limits the requirement to deliver a suspended license or permit to OVI violations (R.C. 4510.13(D)(1)).

Commercial driver's license

Under existing law, suspension of a commercial driver's license must be concurrent with any period of disqualification for failure to pay child support or under the Commercial Drivers' Licensing Law. No person who is disqualified for life from holding a commercial driver's license under the Commercial Drivers' Licensing Law may be issued a driver's license during the period for which the commercial driver's license was otherwise suspended, and no person whose commercial driver's license is suspended may be issued a driver's license during the period of the suspension. (R.C. 4507.16(H)(2).) The bill relocates and retains this provision but limits its application somewhat to only OVI suspensions (R.C. 4510.13(D)(2)).

Credit for administrative suspension

Existing law requires the judge of the court or mayor of the mayor's court to credit any time during which an offender was subject to an administrative suspension of the offender's license, permit, or privilege imposed for refusal to take a designated chemical test or failure of the test, or a suspension imposed by a judge, referee, or mayor because the person's continued driving will be a threat to public safety, against the time to be served under a related suspension imposed under R.C. 4507.16. (R.C. 4507.16(J).) The bill relocates this requirement but limits it to OVI suspensions (R.C. 4510.13(E)).

Notice

Under existing law, the judge or mayor must notify the BMV of any determinations made, and of any suspensions or revocations imposed for OMVI (R.C. 4507.16(K)). The bill requires the judge or mayor to notify the BMV of any determinations made with respect to OVI suspensions (R.C. 4510.13(F)).

Ignition interlock orders

Under existing law, if a court issues an ignition interlock order when granting occupational driving privileges, the order must authorize the offender during the specified period to operate a motor vehicle only if it is equipped with a

certified ignition interlock device. The court must provide the offender with a copy of an ignition interlock order and the copy of the order must be used by the offender in lieu of an Ohio driver's or commercial driver's license or permit until the Registrar or a deputy registrar issues the offender a restricted license. Existing law specifies that an ignition interlock order accompanying occupational driving privileges does not authorize or permit the offender to whom it has been issued to operate a vehicle during any time that the offender's driver's or commercial driver's license or permit is suspended or revoked under any other provision of law. (R.C. 4507.16(L)(1).)

Under existing law, the offender may present the ignition interlock order to the Registrar or to a deputy registrar. Upon presentation of the order, the Registrar or deputy registrar must issue the offender a restricted license. A restricted license is identical to an Ohio driver's license, except that it has printed on its face a statement that the offender is prohibited during the period specified in the court order from operating any motor vehicle that is not equipped with a certified ignition interlock device, and except that the date of commencement and the date of termination of the period must be indicated conspicuously upon the face of the license. (R.C. 4507.16(L)(2).)

The bill relocates and retains these provisions, except it replaces "ignition interlock device" with "immobilizing or disabling device" (R.C. 4510.13(G)) (see "***Immobilizing or disabling device***," below). The bill also relocates and retains the definition of "ignition interlock device" as a device that connects a breath analyzer to a motor vehicle's ignition system, that is constantly available to monitor the concentration by weight of alcohol in the breath of any person attempting to start that motor vehicle by using its ignition system, and that deters starting the motor vehicle by use of its ignition system unless the person attempting to so start the vehicle provides an appropriate breath sample for the device and the device determines that the concentration by weight of alcohol in the person's breath is below a preset level. The bill adds that the ignition interlock device must be approved by the Director of Public Safety. (R.C. 4510.01(C).)

Reissuance after OVI suspension

Under existing law, the Registrar may destroy a driver's or commercial driver's license or permit that he receives because it has been revoked or suspended under the Implied Consent Law. When the Registrar destroys the license or permit, he must reissue or authorize the reissuance of a license to the person, free of payment of any type of fee or charge, if the license would have been valid had it not been destroyed, and if either of the following applies (R.C. 4507.55):

(1) The person appeals the suspension of the license or permit at his initial appearance, the judge of the court of record or the mayor of the mayor's court who conducts the initial appearance terminates the suspension, and the judge or mayor does not suspend the license or permit because the person's continued driving will be a threat to public safety.

(2) The person appeals the suspension of the license or permit at his initial appearance, and the suspension is upheld at the trial level, but terminated upon appeal.

The bill relocates this provision to R.C. 4510.53. The bill also allows the Registrar to destroy the license of a person whose license was suspended for an OVI violation, as well as an implied consent violation. It also allows the appeal of the suspension to take place at or within 30 days of the person's initial appearance. The bill removes a reference to revoked. (R.C. 4510.53.)

Other

The bill eliminates several provisions of existing law related to suspensions of a license, permit, or privilege.

Under existing law, the trial judge of any court of record or the mayor of a mayor's court, in addition to or independent of all other penalties provided by law or by ordinance, may suspend the license, permit, or privilege of any person who violates a requirement or prohibition of the court imposed by the court concerning occupational driving privileges or a condition of probation granted for an OMVI violation, as follows (R.C. 4507.16(C)):

(1) For not more than one year, upon conviction for a first violation of the requirement or prohibition;

(2) For not more than five years, upon conviction for a second or subsequent violation of the requirement or prohibition during the same period of required use of an ignition interlock device.

The bill eliminates this type of suspension.

Driving under a suspension imposed for an OMVI conviction or under the Vehicle Implied Consent Law

Existing law

Offense of driving under OMVI suspension. Existing law prohibits a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended by a court for an OMVI violation from

operating any vehicle upon Ohio's streets or highways during the period of the suspension and prohibits a person who is granted occupational driving privileges by a court from operating any vehicle upon Ohio's streets or highways other than in accordance with the terms of those privileges. (R.C. 4507.02(O)(2).) A violation of this prohibition is the offense of "driving under OMVI suspension or revocation" and is punished as follows (R.C. 4507.99(B)):

(1) ***Generally.*** Except as otherwise provided below in (2) or (3), it is a misdemeanor of the first degree with a mandatory term of imprisonment of not less than three consecutive days. Subject to availability of space at the incarceration center, the court alternatively may sentence the offender to a term of not less than 30 consecutive days of electronically monitored house arrest. The period of electronically monitored house arrest cannot exceed six months. In addition, the court must impose upon the offender a fine of not less than \$250 and not more than \$1,000.

Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, but subject to the protection afforded to an innocent owner, as discussed in Part II of this analysis, the court must order the immobilization for 30 days of the vehicle the offender was operating at the time of the offense and the impoundment for 30 days of its license plates.

(2) ***Second offense in five years.*** If, within five years of the offense, the offender once has been convicted of or pleaded guilty to driving under OMVI suspension or revocation or a violation of a municipal ordinance that is substantially equivalent to that offense, it is a misdemeanor. The court must sentence the offender to a term of imprisonment of not less than ten consecutive days and may sentence the offender to a longer definite term of imprisonment of not more than one year. Subject to the availability of space at the incarceration facility, the court alternatively may sentence the offender to a term of electronically monitored house arrest of not less than 90 consecutive days and not more than one year. In addition, the court must impose upon the offender a fine of not less than \$500 and not more than \$2,500.

Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, but subject to the protection afforded to an innocent owner, the court also must order the immobilization for 60 days of the vehicle the offender was operating at the time of the offense and the impoundment for 60 days of its license plates.

(3) ***Third or subsequent offense in five years.*** If, within five years of the offense, the offender two or more times has been convicted of or pleaded guilty to

driving under OMVI suspension or revocation or a violation of a municipal ordinance that is substantially equivalent to that offense, it is a misdemeanor. The court must sentence the offender to a term of imprisonment of not less than 30 consecutive days and may sentence the offender to a longer definite term of imprisonment of not more than one year. The court cannot sentence the offender to a term of electronically monitored house arrest. In addition, the court must impose upon the offender a fine of not less than \$500 and not more than \$2,500.

Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, but subject to the protection afforded to an innocent owner, the court must order the criminal forfeiture to the state of the vehicle the offender was operating at the time of the offense and the impoundment for 60 days of its license plates.

If title to a motor vehicle that is subject to the order for criminal forfeiture is assigned or transferred and there are lienholder or other interests that prevent the criminal forfeiture of the vehicle, the court also may fine the offender the value of the vehicle as determined by publications of the National Auto Dealer's Association.

(4) **License suspension.** In addition to or independent of all other penalties provided by law or ordinance, the sentencing judge or mayor of the mayor's court must suspend for a period not to exceed one year the offender's driver's or commercial driver's license or permit or nonresident operating privilege.

(5) **Fine disposition.** Fifty per cent of the fine imposed under these provisions is deposited into the county or municipal indigent drivers alcohol treatment fund under the control of that court.

(6) **Commercial driver's license suspension.** Suspension of a commercial driver's license for driving under OMVI suspension or revocation is concurrent with any period of disqualification otherwise imposed. No person who is disqualified for life from holding a commercial driver's license under the Commercial Driver's Licensing Law may be issued a driver's license during the period for which the commercial driver's license was so suspended, and no person whose commercial driver's license is so suspended may be issued a driver's license during the period of the suspension.

Offense of driving under a Vehicle Implied Consent Law Suspension. Existing law prohibits a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under the state's Vehicle Implied Consent Law from operating a vehicle upon Ohio's streets or highways. It is an affirmative defense to a prosecution brought for a violation of this prohibition that the alleged offender drove under suspension because of a

substantial emergency, provided that no other person was reasonably available to drive in response to the emergency. (R.C. 4511.192.)

A violation of the prohibition described in the preceding paragraph is a misdemeanor of the first degree. The court, in addition to or independent of all other penalties provided by law, may suspend for a period not to exceed one year the driver's or commercial driver's license or permit or nonresident operating privilege of the offender. (R.C. 4511.99(B).)

Operation of the bill

Generally. The bill relocates the offense of driving under OMVI suspension or revocation, includes within the offense the prohibition against operating a vehicle while under a Vehicle Implied Consent Law suspension, renames the offense, expands and modifies some of its elements, extends to six years the "look back" period used in determining the sentence for the offense, and enacts a new sentencing structure for it. The bill maintains identical periods of imprisonment, fines, and periods of vehicle immobilization or impoundment and criminal forfeiture. (R.C. 4510.14, and repeal of existing R.C. 4507.02(D)(2), 4507.99(B), 4511.192(A) and (B), and 4511.99(B).)

Offense. The bill prohibits a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended subsequent to a conviction of state OVI or state OVUAC, or under the state's Vehicle Implied Consent Law (all as described in Part II of this analysis) from operating any motor vehicle upon Ohio's highways or streets during the period of the suspension (R.C. 4510.14(A)).

Penalties. A violation of the prohibition is the offense of "driving under OVI suspension," and the court is required to sentence the offender under the Criminal Sentencing Law, subject to the authorized or required differences described below (R.C. 4510.14(B)):

(1) **Generally.** Except as otherwise described in (2) or (3), below, driving under OVI suspension is a misdemeanor of the first degree, and the court must sentence the offender to all of the following: (a) a mandatory jail term of three consecutive days (unless the court instead imposes an alternative electronically monitored house arrest sentence of not less than 30 consecutive days, and not more than six months), (b) a fine of not less than \$250 and not more than \$1,000, (c) a license suspension as described below, and (d) if the vehicle the offender was operating at the time of the offense is registered in the offender's name,

immobilization for 30 days of the offender's vehicle and impoundment for 30 days of its license plates.¹

(2) **Second offense in six years.** If, within *six years* of the offense (expanded from five years), the offender one time previously has been convicted of or pleaded guilty to driving under OVI suspension or an "equivalent offense" (see "**Definition of equivalent offense,**" below), driving under OVI suspension is a misdemeanor of the first degree, and the court must sentence the offender to all of the following:

(a) A mandatory jail term of ten consecutive days. Notwithstanding the terms of imprisonment provided in the Criminal Sentencing Law, the court may sentence the offender to a jail term of not more than one year. The ten-day mandatory jail term must be imposed unless the court imposes an alternative electronically monitored house arrest sentence of not less than 90 consecutive days and not more than one year.

(b) Notwithstanding the fines provided in the Criminal Sentencing Law, a fine of not less than \$500 and not more than \$2,500;

(c) A license suspension as described below;

(d) If the vehicle the offender was operating at the time of the offense is registered in the offender's name, immobilization of the offender's vehicle for 60 days and the impoundment for 60 days of its license plates.

(3) **Third offense in six years.** If, within six years of the offense, the offender two or more times previously has been convicted of or pleaded guilty to driving under OVI suspension or an "equivalent offense" (see "**Definitions,**" below), driving under OVI suspension is a misdemeanor, and the court must sentence the offender to all of the following:

(a) A mandatory jail term of 30 consecutive days. Notwithstanding the terms of imprisonment provided in the Criminal Sentencing Law, the court may sentence the offender to a longer jail term of not more than one year. The court cannot sentence the offender to a term of electronically monitored house arrest in lieu of the mandatory portion of the jail term.

(b) Notwithstanding the fines set forth in the Criminal Sentencing Law, a fine of not less than \$500 and not more than \$2,500;

¹ A reference to section 4507.02 appears to be erroneous.

(c) A license suspension as described below;

(d) If the vehicle the offender was operating at the time of the offense is registered in the offender's name, criminal forfeiture to the state of the offender's vehicle. If title to a motor vehicle that is subject to the order for criminal forfeiture is assigned or transferred and there are lienholder or other interests that prevent the criminal forfeiture of the vehicle, the court may fine the offender the value of the vehicle as determined by publications of the National Auto Dealer's Association.

Electronically monitored house arrest restrictions. As under existing law, the bill prohibits a court from imposing an alternative sentence of electronically monitored house arrest unless, within 60 days of the date of sentencing, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender will serve the jail term imposed, the offender will not be able to begin serving that term within the 60-day period following the date of sentencing. An offender sentenced to a period of electronically monitored house arrest must be permitted work release during that period. (R.C. 4510.14(C).)

Fine distribution. Fifty per cent of any fine imposed by a court on a person convicted of driving under an OVI conviction must be deposited into the county or municipal indigent drivers alcohol treatment fund under the control of that court (R.C. 4510.14(D)).

License suspension. The bill specifies that, in addition to or independent of all other penalties provided by law or ordinance, the sentencing judge or mayor must impose a Class 6 suspension (a definite period not to exceed one year) of the offender's driver's or commercial driver's license or permit or nonresident operating privilege. If the court grants limited driving privileges during a suspension imposed for driving under OVI suspension, the privileges must be granted on the additional condition that the offender must display restricted license plates on the vehicle driven subject to the privileges.

A suspension of a commercial driver's license under this provision is concurrent with any period of disqualification under a child support order or under the Commercial Driver's Licensing Law. No person who is disqualified for life from holding a commercial driver's license under the Commercial Driver's Licensing Law may be issued a driver's license during the period for which the commercial driver's license was suspended, and no person whose commercial driver's license is suspended for driving under OVI suspension may be issued a driver's license during the period of the suspension. (R.C. 4510.14(E).)

Definitions. The bill incorporates by reference the Criminal Sentencing Law's existing definitions of electronically monitored house arrest and "jail." It

also defines the following terms for purposes of the offense of driving under OVI suspension (R.C. 4510.14(F)):

(1) "Equivalent offense" means any violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to the offense of driving under OVI suspension, or a violation of a former Ohio law of this state that was substantially equivalent to the offense of driving under OVI suspension.

(2) "Mandatory jail term" means the mandatory term in jail of three, 10, or 30 consecutive days that must be imposed under the bill upon an offender convicted of the offense of driving under OVI suspension and in relation to which all of the following apply: (a) except as specifically authorized under the bill, the term must be served in a jail, and (b) except as specifically authorized under the bill, the term cannot be suspended, reduced, or otherwise modified pursuant to any provision of the Revised Code.

Pretrial seizure and retention of vehicle involved in DUS or wrongful entrustment offense

Existing law

Under existing law, if a person is arrested for driving under OMVI suspension or revocation, for driving under financial responsibility law suspension or revocation, for permitting the operation of a vehicle by a person with no legal right to operate a vehicle, or for violating a substantially equivalent municipal ordinance, and if the person, upon conviction of the offense, would be subject to the issuance of a vehicle immobilization and impoundment order or a vehicle criminal forfeiture order as a result of the conviction, the arresting officer or another officer of the agency that employs the arresting officer must seize the vehicle that the person was operating at the time of the offense and its license plates. The law provides detailed procedures that govern the disposition of the vehicle after its seizure, including its possible return in specified circumstances to the vehicle owner.

A vehicle seized under this provision must be safely kept at the place to which it is towed or otherwise moved by the law enforcement agency until the arrested person's initial appearance relative to the charge in question. If, at the initial appearance, the arrested person pleads guilty or no contest to the violation charged: (1) the court must impose sentence upon the arrested person as provided by law or ordinance, (2) the court, except as described below and subject to the "innocent owner" exception (see Part II of this analysis), must order the immobilization of the vehicle and the impoundment of its license plates or the criminal forfeiture of the vehicle, whichever is applicable, and (3) the vehicle and

its license plates cannot be returned or released to the vehicle owner. If the arrested person is not the vehicle owner and the owner is not present at the appearance and if the court believes that the owner was not provided adequate notice of the initial appearance, the court may refrain for a period of time not exceeding seven days from ordering the immobilization of the vehicle and the impoundment of its license plates, or the criminal forfeiture of the vehicle so that the owner may appear before the court to present evidence as to why the court should not order the immobilization and impoundment or forfeiture.

If, at any time, the charge that the arrested person committed the violation charged is dismissed for any reason, the court must order that the vehicle seized at the time of the arrest and its license plates immediately be released to the vehicle owner subject to the payment of expenses or charges incurred in the removal and storage of the vehicle.

If a vehicle seized under the provision is not returned or released to the vehicle owner as described above, the vehicle or its license plates must be retained until the final disposition of the charge in question. Upon the final disposition of that charge, the court must do whichever of the following is applicable: (1) if the arrested person is convicted of the violation charged, the court must impose sentence upon the person as provided by law or ordinance and, subject to the innocent owner exception, must order the immobilization and impoundment of the vehicle or the criminal forfeiture of the vehicle (as described in Part II of this analysis), whichever is applicable, (2) if the arrested person is found not guilty of the violation, the court must order that the vehicle and its license plates immediately be released to the vehicle owner upon the payment of any expenses or charges incurred in its removal and storage, or (3) if the charge of the violation is dismissed for any reason, the court must order that the vehicle and its license plates immediately be released to the vehicle owner upon the payment of any expenses or charges incurred in its removal and storage.

The vehicle owner may be charged expenses or charges incurred in the removal and storage of the immobilized vehicle. The court with jurisdiction over the case, after notice to all interested parties, including lienholders, and after an opportunity for them to be heard, if the vehicle owner fails to appear in person, without good cause, or if the court finds that the vehicle owner does not intend to seek release of the vehicle at the end of the period of immobilization or that the vehicle owner is not or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the person or entity that removed it, next into the name of a lienholder, or lastly into the name of the owner of the place of storage. Special provisions apply regarding any lienholder that receives title under such a court order. (R.C. 4507.38.)

Operation of the bill

The bill relocates the pretrial vehicle seizure and retention provisions and modifies them to conform them to the changes it makes in the driving under suspension and wrongful entrustment penalty provisions regarding vehicle immobilization, impoundment, and forfeiture (see Part II of this analysis for a discussion of the wrongful entrustment provisions). Under the bill, the driving under suspension and wrongful entrustment immobilization, impoundment, and forfeiture provisions apply regarding a vehicle used in committing one of those offenses *only if the vehicle was registered in the arrested person's name*. The bill changes the terminology, and many of the procedures, of the pretrial seizure and retention provisions to reflect this change. It also eliminates references to the "innocent owner" exception the bill repeals (as described in Part II of this analysis) and adds a new "fourth option" that applies to the court upon the final disposition of the charge that was the basis for the seizure of the vehicle. Under the bill's fourth option, instead of using any of the three existing options as described in the second preceding paragraph, if the impoundment of the vehicle in question was not authorized under the pretrial seizure and retention provision as amended by the bill, the court must order that the vehicle and its license plates be returned immediately to the arrested person and order that the state or a political subdivision of the law enforcement agency served by the law enforcement officer who seized the vehicle pay all expenses and charges incurred in its removal and storage. (R.C. 4510.41.)

Financial responsibility suspension

Existing law

Law unaffected by the bill prohibits any person from operating, or permitting the operation of, a motor vehicle in this state unless proof of financial responsibility is maintained continuously throughout the registration period with respect to that vehicle or, in the case of a driver who is not the owner, with respect to that driver's operation of that vehicle. Under existing law, whoever violates the financial responsibility requirement is subject to the following civil penalties (R.C. 4509.101(A)(1) and (2)):

(1) Suspension of the person's operating privileges and impoundment of the person's license until the person pays a financial responsibility reinstatement fee of \$75 on a first violation, \$250 for a second violation, and \$500 for subsequent violations; pays a nonvoluntary compliance fee if necessary; and files and continuously maintains proof of financial responsibility. The suspension is for a period of not less than 90 days except that if, within five years of the violation, the person's operating privileges are again suspended and the person's license is

impounded one or more times for a financial responsibility violation, the suspension is for a period of not less than one year. Except as discussed below, the suspension is not subject to revocation, suspension, or occupational or other limited operating privileges.

(2) In addition to the suspension of operating privileges, whoever violates the financial responsibility requirement is subject to the suspension of the rights of the owner to register the motor vehicle and the impoundment of the owner's certificate of registration and license plates until the owner pays the applicable reinstatement fee and the nonvoluntary compliance fee, if necessary, and files and continuously maintains proof of financial responsibility.

Any person whose operating privileges have been suspended for a financial responsibility violation may petition the Registrar for occupational driving privileges if the suspension seriously affects the person's ability to continue employment. The person seeking occupational driving privileges must file proof of financial responsibility with the petition. When the Registrar receives a petition for occupational driving privileges, existing law requires the Registrar to grant the petitioner the occupational driving privileges if the Registrar determines all of the following (R.C. 4509.105):

(1) The petitioner has filed current proof of financial responsibility with the Registrar.

(2) The petitioner has not previously had operating privileges suspended for a financial responsibility violation.

(3) The petitioner has not had a license or commercial driver's license suspended within the previous five years for accumulating 12 points against the petitioner's license.

(4) The petitioner has not been convicted of any criminal or traffic violation within the previous five years for which six points are assessed.

(5) The petitioner's license is not subject to suspension for any other reason.

(6) The petitioner has paid or secured all damages caused while driving without proof of financial responsibility.

(7) The petitioner has paid all applicable financial responsibility reinstatement fees or financial responsibility nonvoluntary compliance fees.

Existing law prohibits granting occupational driving privileges during the first 30 days of the petitioner's license suspension. A person granted occupational driving privileges for a financial responsibility suspension must continuously maintain proof of financial responsibility with the Registrar for a period of five years from the date of suspension of operating privileges by the Registrar. (R.C. 4509.105.)

Existing law specifies the type of proof of financial responsibility that must be filed when required. The required proof must be filed and maintained for five years from the date of suspension of operating privileges. (R.C. 4509.45.)

The bill

Under the bill, whoever violates the financial responsibility requirement is subject to a Class E (three months) administrative suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege and impoundment of the person's license. The court may grant limited driving privileges to the person only if the person presents proof of financial responsibility and also pays a financial responsibility reinstatement fee of \$75 on a first violation, \$250 for a second violation, and \$500 for subsequent violations; pays a nonvoluntary compliance fee if necessary; and files and continuously maintains proof of financial responsibility. (R.C. 4509.101(A)(2)(a) and (5).)

If, within five years of the violation, the person's operating privileges are again suspended and the person's license again is impounded for a financial responsibility violation, the person is subject to a Class C (one year) administrative suspension. The granting of limited driving privileges to the person is subject to the same requirements concerning the payment of fees and maintaining of proof of financial responsibility as is required on a first offense. No court may grant limited driving privileges for the first 15 days of the suspension. (R.C. 4509.101(A)(2)(b).)

If, within five years of the violation, the person's operating privileges are suspended and the person's license is impounded two or more times for a financial responsibility violation, the person is subject to a Class B (two years) administrative suspension. No court may grant limited driving privileges to the person. (R.C. 4509.101(A)(2)(c).)

The bill repeals the section of existing law establishing the procedures and conditions under which a person may petition the Register for, and the Registrar may grant, occupational driving privileges to a person whose license is under a financial responsibility suspension (R.C. 4509.105, repealed).

The bill also repeals the provision of law requiring the Registrar to suspend the driver's or commercial driver's license or permit or nonresident operating privilege of the person and the registration of all motor vehicles registered in the name of the person as the owner, whenever the Registrar receives notice from a court of record or mayor's court that a person has been convicted of, pleaded guilty to, or forfeited any bail or collateral deposited to secure an appearance for trial for any of the crimes for which a license suspension is required. However, the requirement to suspend a license under this repealed provision of law does not apply if the person has given or immediately gives and thereafter maintains, for a period of three years, proof of financial responsibility with respect to all the motor vehicles registered by the person as the owner. The repealed requirement to suspend a license also does not apply to OMVI offenses if the offender does not have previous OMVI offenses and the offender did not cause serious physical harm to any other person. (R.C. 4509.31, repealed.)

Additionally, the bill repeals a provision of existing law prohibiting a motor vehicle from continuing to be registered or being registered in the name of a person as owner unless the person gives and thereafter maintains proof of financial responsibility if the person has no license but by final order or judgment of a court of record or mayor's court is convicted of, or forfeits any bail or collateral deposited to secure an appearance for trial for, any offense authorizing the revocation of license, or for driving a motor vehicle upon the highways without being licensed to do so, or for driving an unregistered motor vehicle upon the highways. Under this existing provision that is repealed by the bill, if the offense was an offense authorizing the revocation of license, no license may be thereafter issued to such person for a period of two years following the conviction or bail forfeiture and not until the person gives and thereafter maintains proof of financial responsibility. (R.C. 4509.32, repealed.)

The bill retains the existing types of proof of financial responsibility that must be filed when a person is required to file and maintain proof of financial responsibility. However, the bill requires that the proof be filed and maintained for five years from the date of the imposition of a Class 1, 2, or 3 (a definite period of three years to life, two to ten years, or one to five years) suspension and for three years from the date of the imposition of a Class 4, 5, or 6 suspension (a definite period of six months to three years, three months to two years, or a period not to exceed one year) of operating privileges.² (R.C. 4509.45.)

² *This is an apparent error because Class 1 through 6 suspensions are imposed by a court; Class A through F suspensions are imposed by the Registrar and are the type of suspensions required by the bill in section 4509.101 of the Revised Code.*

Driving under financial responsibility suspension

Existing law

Existing law prohibits any person, whose driver's or commercial driver's license or permit or nonresident's operating privilege has been suspended or revoked for a financial responsibility violation from operating any motor vehicle within this state, or knowingly permitting any motor vehicle owned by the person to be operated by another person in the state, during the period of the suspension or revocation, except as specifically authorized. Also, no person may operate a motor vehicle within this state, or knowingly permit any motor vehicle owned by the person to be operated by another person in the state, during the period in which the person is required to file and maintain proof of financial responsibility for a financial responsibility violation, unless proof of financial responsibility is maintained with respect to that vehicle. (R.C. 4507.02(B)(1).)

Whoever violates the above prohibitions is guilty of "driving under financial responsibility law suspension or revocation." Driving under financial responsibility law suspension or revocation is a first degree misdemeanor. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the court, subject to the innocent owner protections, also must order the immobilization of the vehicle the offender was operating at the time of the offense, and the impoundment of the vehicle license plates, for the following lengths of time (R.C. 4507.99(C)(1) and (2)):

(1) 30 days on a first offense;

(2) 60 days if, within five years of the offense, the offender has been convicted of or pleaded guilty to one driving under financial responsibility law suspension or revocation violation or one violation of a municipal ordinance that is substantially equivalent to that violation.

If, within five years of the offense, the offender has been convicted of or pleaded guilty to two or more violations of driving under financial responsibility law suspension or revocation or of a municipal ordinance that is substantially equivalent to that violation, the court must order the criminal forfeiture of the vehicle that the offender was operating at the time of the offense. If title to a motor vehicle that is subject to an order for criminal forfeiture under this provision is assigned or transferred and there are lienholder or other interests that prevent the criminal forfeiture of the vehicle, the court also may fine the offender the value of the vehicle as determined by publications of the National Auto Dealer's Association. (R.C. 4507.99(C)(3).)

Additionally, the court may suspend the driver's or commercial driver's license or permit or nonresident operating privilege of an offender who is sentenced for driving under financial responsibility suspension or revocation for a period not to exceed one year. The court may not release a vehicle from the immobilization unless the court is presented with current proof of financial responsibility with respect to that vehicle. (R.C. 4507.99(C)(4) and (5).)

The bill

The prohibition and penalties imposed under the bill are relocated but are similar to those of existing law. The offense has the same name and continues to be a first degree misdemeanor. The bill maintains identical periods of immobilization and impoundment and the possibility of criminal forfeiture. The period of suspension that may be imposed becomes a Class E (three months) administrative suspension. The bill eliminates the possibility that a vehicle belonging to a person other than the offender may be subject to immobilization, impoundment, or criminal forfeiture. It broadens the coverage of what may be considered a previous offense by removing the five-year "look-back" period. Lastly, it eliminates references to the license being under revocation. (R.C. 4510.16.)

Drug offenses under federal law or in another state or OMVI in another state

Suspensions

Existing law. Existing law requires the Registrar to suspend or deny issuance of a driver's or commercial driver's license or permit to any adult or juvenile who is a resident of this state and is convicted of or pleads guilty to a violation of (1) drug offense laws of any other state or federal drug offense laws that are substantially similar to specified drug offenses of this state, or (2) OMVI laws or municipal ordinances of another state that are substantially similar to the OMVI laws of this state. When the Registrar is notified of such a conviction or plea, the Registrar must notify the person that the suspension or denial of the person's license or permit will take effect 21 days from the date of the notice. Existing law establishes a procedure for filing a notice requesting a hearing and conducting the hearing limited to whether the person actually was convicted of or pleaded guilty to the offense for which the suspension or denial is to be imposed.

The period of suspension or denial ends either on the last day of any period of suspension of the person's nonresident operating privilege imposed by the state or federal court located in the other state, or the date six months and 21 days from the date of the notice sent by the Registrar to the person, whichever is earlier. (R.C. 4507.169(A) through (D).)

The bill. The bill relocates these existing law provisions. It retains the required suspensions and the notification and hearing requirements. Under the bill, however, the Registrar must impose a Class D (six months) administrative suspension, and the suspension must end either on the last day of the Class D suspension or the last day of the suspension of the person's nonresident operating privilege by the state or federal court, whichever is earlier. (R.C. 4510.17(A) through (D).)

Occupational driving privileges

Existing law. Under existing law, any adult or juvenile whose license or permit has been suspended pursuant to an out-of-state OMVI may file a petition in the court in whose jurisdiction the person resides agreeing to pay the cost of the proceedings and alleging that the suspension would seriously affect the person's ability to continue the person's employment. Upon satisfactory proof that there is reasonable cause to believe that the suspension would seriously affect the person's ability to continue the person's employment, the judge may grant the person occupational driving privileges during the period the suspension otherwise would be imposed. The judge may not, however, grant occupational driving privileges for employment as a driver of a commercial motor vehicle to any person who would be disqualified from operating a commercial motor vehicle under the Commercial Drivers' Licensing Law if the violation had occurred in this state or during any of the following periods of "hard" suspension (R.C. 4507.169(E)):

(1) The first 15 days of the suspension, if the person has not been convicted within five years of the date of the offense giving rise to the suspension of any specified alcohol-related and vehicle-related violations;

(2) The first 30 days of the suspension if the person has been convicted of a violation of the specified alcohol-related and vehicle-related violation only one time within five years of the date of the offense giving rise to the suspension;

(3) The first 180 days of the suspension if the person has been convicted of a violation of any of the specified alcohol-related and vehicle-related violations two times within five years of the date of the offense giving rise to the suspension.

No occupational driving privileges may be granted if the person has been convicted of a violation of any of the specified alcohol-related and vehicle-related violations three or more times within five years of the date of the offense giving rise to the suspension. (R.C. 4507.169(E).)

The bill. The bill relocates the provisions of existing law discussed above. It generally retains the provisions for occupational driving privileges as discussed above, including the periods during which no privileges may be granted, with the

following exceptions: (1) the "look-back" period during which the conviction of the specified offenses may act to cause the person to be ineligible for driving privileges is extended to six years, and (2) the term "occupational" driving privileges is replaced with "limited" driving privileges. (R.C. 4510.17(E).)

Failure to reinstate

Existing law prohibits any person from operating any motor vehicle within this state if the person's driver's or commercial driver's license or permit has been suspended for (1) refusal to take or failure of a designated chemical test of alcohol or drugs, (2) suspension at an initial appearance because a person's continued driving will be a threat to public safety, or (3) an OMVI violation. The prohibition against operating a motor vehicle continues until the person has paid a \$405 license reinstatement fee and the license or permit has been returned to the person or a new license or permit has been issued to the person. (R.C. 4507.02(C).) A violation of this prohibition is "driving without paying a license reinstatement fee," a first degree misdemeanor. Additionally, the court may suspend the person's driver's or commercial driver's license or permit or nonresident operating privilege for a period not to exceed one year. (R.C. 4507.99(A).)

The bill prohibits any person whose driver's or commercial driver's license, temporary instruction permit, or nonresident operating privilege has been suspended from operating any motor vehicle upon a public road or highway or any public or private property after the suspension has expired unless the person has complied with all license reinstatement requirements imposed by a court, the BMV, or by another provision of law. A violation of this prohibition is "failure to reinstate a license" and applies to all license, permit, or privilege suspensions and not to just the selected suspensions reviewed above. The bill reduces this offense from a first degree misdemeanor to a third degree misdemeanor and specifically prohibits any court from imposing a suspension for the offense. (R.C. 4510.21.)

Repeat traffic offender license suspension (accumulation of points on driving record)

Overview

The bill reorganizes and relocates the provisions related to suspending a driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege based on the accumulation of points on a person's driving record. In existing law, the repeat traffic offender suspensions are found in section 4507.021; based on the provisions of existing law, the bill relocates the provisions for suspensions based on point accumulation to sections 4510.03 to 4510.037 and repeals section 4507.021.

Record and abstract

The bill relocates the following provisions:

The bill requires every county court judge, mayor of a mayor's court, and clerk of a court of record to keep a full record of every case in which a person is charged with specified violations of the Motor Vehicle Law (R.C. 4511.01 to 4511.771, 4511.99, and 4513.01 to 4513.36) or of any other law or ordinance regulating the operation of vehicles, streetcars, and trackless trolleys on highways or streets. (R.C. 4507.021(A), repealed, and 4510.03(A).)

If a person is convicted of (existing law), adjudicated a juvenile traffic offender or a delinquent child for (added by the bill), or forfeits bail (existing law) in relation to a violation of any section listed above or a violation of any other law or ordinance regulating the operation of vehicles, streetcars, and trackless trolleys on highways or streets, a county court judge, mayor of a mayor's court, or clerk, within ten days after the conviction, adjudication, or bail forfeiture, must prepare and immediately forward to the BMV an abstract, certified by the preparer to be true and correct, of the court record covering the case in which the person was convicted, adjudicated, or forfeited bail (existing law). Every court of record also must forward to the BMV an abstract of the court record upon the conviction or adjudication of any person of aggravated vehicular homicide or vehicular homicide or of a felony in the commission of which a vehicle was used (added by the bill). (R.C. 4507.021(B) and (D)(1), repealed, and 4510.03(B).)

Each abstract must be made upon a form approved and furnished by the BMV. The abstract must include the name and address of the person charged, the number of the person's driver's or commercial driver's license, probationary driver's license, or temporary instruction permit, the registration number of the vehicle involved, the nature of the offense, the date of the offense, the date of hearing, the plea, the judgment, or whether bail was forfeited, and the amount of the fine or forfeiture. (R.C. 4507.021(C)(1), repealed, and 4510.03(C).)

United States District Courts--records and abstract

Existing law authorizes a United States District Court whose jurisdiction lies within this state to utilize the record and abstract provisions for point accumulation in regard to offenses occurring on federal property within this state. The bill consolidates these provisions of existing law. Under the bill, a United States District Court whose jurisdiction lies within this state may utilize the record and abstract provisions set forth above in regard to any case in which a person is charged with any violation of specific sections of the Motor Vehicle Law (sections 4511.01 to 4511.771, 4511.99, and 4513.01 to 4513.36 of the Revised Code) or of any other law or ordinance regulating the operation of vehicles, streetcars, and

trackless trolleys on highways or streets located on federal property within this state. The District Court also may forward to the BMV an abstract upon the conviction of any person of aggravated vehicular homicide or vehicular homicide or of a felony in the commission of which a vehicle was used.

If a United States District Court acts under this authority, it must follow the procedures set forth above for recording cases, preparing and forwarding an abstract, and using the form from the BMV. The BMV must accept and process an abstract received from a United States District Court in the same manner as it accepts and processes an abstract received from a county judge, mayor of a mayor's court, or clerk of a court of record. (R.C. 4507.021, repealed, and 4510.031.)

Existing law provides that if a United States District Court whose jurisdiction lies within this state suspends, revokes, or cancels, or forfeits the driver's or commercial driver's license or, permit, or nonresident operating privileges of any person under the federal "Assimilative Crimes Act," that suspension, revocation, cancellation, or forfeiture is deemed to operate in the same manner and to have the same effect throughout this state as if it were imposed under the laws of this state by a judge of a court of record of this state. In that type of case, the district court must observe the prescribed procedures and utilize the forms prescribed by the Registrar. The BMV must make the appropriate notation or record and take any other action that is prescribed or permitted. The bill relocates this provision, revises the wording, removes references to "revoke and forfeit," and adds nonresident operating privileges as being subject to suspension or cancellation under this authority. (R.C. 4507.1610, renumbered, and 4510.06.)

Charge dismissed or reduced--record and abstract

The bill relocates the procedures that govern record keeping when a charge is dismissed or reduced or when there is a bail forfeiture. Existing law and the bill require the abstract to set forth a charge that was dismissed or reduced, indicate that it was dismissed or reduced, and indicate that the violation resulting in the conviction (existing law), adjudication for juvenile traffic offenders (added by bill), or bail forfeiture arose out of the same facts and circumstances and the same act as did the charge that was dismissed or reduced under the following sets of facts (R.C. 4507.021(C)(2), repealed, and 4510.032(A) and (B)):

(1) The violation of which the person was convicted (or adjudicated) or in relation to which the person forfeited bail arose out of the same facts and circumstances and the same act as did the charge that was dismissed or reduced under either of the following situations:

(a) A person is charged with an OVI violation or a violation of any ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or relating to operating a vehicle with a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine, and that charge is dismissed or reduced;

(b) The person is convicted of, adjudicated a juvenile traffic offender or delinquent child for, or forfeits bail in relation to a violation of any other section of the Revised Code or of any ordinance that regulates the operation of vehicles, streetcars, and trackless trolleys on highways and streets but that does *not* relate to OVI.

(2) If a charge against a person of a violation driving under suspension, driving under OVI suspension, or driving under financial responsibility suspension or any municipal ordinance that is substantially equivalent to any of those is dismissed or reduced and if the person is convicted of, adjudicated a juvenile traffic offender or delinquent child for, or forfeits bail in relation to a violation of any other law or any other ordinance that regulates the operation of vehicles, streetcars, and trackless trolleys on highways and streets that arose out of the same facts and circumstances as did the charge that was dismissed or reduced.

Juveniles--record and abstract

Under existing law, if a child has been adjudicated an unruly or delinquent child or a juvenile traffic offender for having committed any act that if committed by an adult would be a drug abuse offense, any alcohol-related disorderly conduct violation, or an OVI violation, the court must notify the BMV, by means of an abstract of the court record, within ten days after the adjudication. If a court requires a child to attend a drug abuse or alcohol abuse education, intervention, or treatment program, the abstract also must include the name and address of the operator of the program and the date that the child entered the program. If the child satisfactorily completes the program, the court, immediately upon receipt of the information, must send to the BMV an updated abstract that also must contain the date on which the child satisfactorily completed the program. The bill relocates these provisions. (R.C. 4507.021(D)(2), repealed, and 4510.032(C).)

Registration restriction--record and abstract

Under existing law and the bill, if a person was convicted of or pleaded guilty to a violation of driving under suspension, driving under OVI suspension, or driving under financial responsibility suspension, a municipal ordinance substantially equivalent to any of the provisions prohibiting driving under those suspensions, OVI, wrongful entrustment, or a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or a

combination of them or with a prohibited concentration of alcohol in the whole blood, blood plasma or serum, breath, or urine, and the Registrar and all deputy registrars are prohibited from accepting an application for the registration of, or registering, any motor vehicle in the name of that person because of an order for criminal forfeiture, the abstract prepared pursuant to the provisions discussed above under "**Record and abstract**" must specifically set forth these facts and clearly indicate the date on which the order of criminal forfeiture was issued or would have been issued but for the operation of the criminal forfeiture procedures. If the Registrar receives an abstract containing this information relating to a person, the Registrar must take all necessary measures to prevent the Registrar's office or any deputy registrar from accepting from the person, for the period of time ending five years after the date on which the order was issued or would have been issued, any new application for the registration of any motor vehicle in the name of the person. (R.C. 4507.021(C)(3), repealed, and 4510.034.)

Misconduct in office--noncompliance with records and abstract requirements

The bill relocates an existing provision establishing that the purposeful failure or refusal of any person to comply with any provision of the law regarding the recording of violations and preparation of an abstract for the suspension of a license, privilege, or permit based on point accumulation constitutes misconduct in office and is a ground for removal of the person from the office (R.C. 4507.021(E), repealed, and 4510.035).

Bureau of Motor Vehicle's duties--records and abstracts

The bill continues existing law and requires the BMV to record within ten days after receipt and to keep at its main office all abstracts received from a court or mayor's court. The BMV must maintain records of convictions, adjudications (added by bill), and bond forfeitures for any violation of a state law or a municipal ordinance regulating the operation of vehicles, streetcars, and trackless trolleys on highways and streets, except a violation related to parking a motor vehicle. (R.C. 4507.021(F), repealed, and 4510.036(A).)

Existing law and the bill require every court of record or mayor's court before which a person is charged with a violation for which points are chargeable to assess and transcribe to the abstract of conviction (existing law) or adjudication (added by bill) report that is furnished by the BMV to the court the number of points chargeable in the correct space assigned on the reporting form. Similarly, a United States District Court whose jurisdiction lies within this state and before whom a person is charged with a violation for which points are chargeable may assess and transcribe to the abstract of conviction report that is furnished by the

BMV the number of points chargeable in the correct space assigned on the reporting form. If the federal court so assesses and transcribes the points chargeable for the offense and furnishes the report to the BMV, the BMV must record the points in the same manner as those assessed and transcribed by a court of record or mayor's court. (R.C. 4507.021(G), repealed, and 4510.036(B).)

Points assessed for traffic violations

With the following exceptions, the bill generally relocates the formula for assessing points without making substantive changes to the points assessed (R.C. 4507.021(G), repealed, and 4510.036(C)):

(1) Under existing law, six points are assessed for unauthorized use of a vehicle; the bill eliminates the assessment of points for this violation (R.C. 4507.021(G)(2), repealed, and 4510.036 (C)).

(2) Under existing law, six points are assessed for any crime punishable as a felony under the motor vehicle laws or for any other felony in the commission of which a motor vehicle was used; the bill eliminates the assessment of points for these violations (R.C. 4507.021(G)(7), repealed, and 4510.036 (C)).

(3) Under existing law, two points are assessed for a violation of any law or ordinance pertaining to speed except for violations of the 55 or 65 miles per hour speed limit. Existing law assesses two points upon a first violation of the 55 or 65 miles per hour speed limit, at a speed in excess of 75 miles per hour. Upon a second violation within one year of the first violation of the 55 or 65 miles per hour speed limit, one point is assessed for each increment of five miles per hour in excess of the posted speed limit, exclusive of the first five miles per hour over the limitation. Upon a third or subsequent violation within one year of the first violation of the 55 or 65 miles per hour speed limit, two points are assessed for each increment of five miles per hour in excess of the posted speed limit, exclusive of the first five miles per hour over the limitation.

Under the bill, four points are assessed when the speed exceeds the lawful speed limit by 30 miles per hour or more. Four points also are assessed if the speed exceeds the lawful speed limit of 55 miles per hour or more by more than ten miles per hour. When the speed exceeds the lawful speed limit of less than 55 miles per hour by more than five miles per hour, two points are assessed. No points are assessed if the speed exceeds the lawful limit by five miles per hour or less. (R.C. 4507.021(G)(12) through (14), repealed, and 4510.036(C)(9).)

As under existing law, the bill establishes that two points are assessed for all moving violations for which no points are specifically determined. The bill defines "moving violation" as any violation of any statute or ordinance that

regulates the operation of vehicles, streetcars, or trackless trolleys on the highways or streets. By use of the definition, the bill also retains the provision of existing law excluding all of the following from the assessment of points: (1) a seat belt violation (or a substantially equivalent municipal ordinance), (2) a violation of any statute or ordinance regulating pedestrians or the parking of vehicles, (3) vehicle size or load limitations, (4) vehicle fitness requirements, or (5) vehicle registration. (R.C. 4507.021, repealed, 4510.01(E), and 4510.036(C)(11).)

The bill continues existing law and provides that if a person is convicted of, is adjudicated a juvenile traffic offender or delinquent child for (added by bill), or forfeits bail for two or more offenses, delinquent acts (added by bill), or juvenile traffic offenses (added by bill) arising out of the same facts and points are chargeable for each of the offenses or acts, points may be charged for only the conviction, adjudication, or bond forfeiture for which the greater number of points is chargeable. If the number of points chargeable for each offense or act is equal, only one offense or act may be recorded, and points may be charged only for that offense or act. (R.C. 4507.021(I), repealed, and 4510.036(E).)

Administrative procedures for repeat traffic offender license suspension

The procedures in the bill for suspending a person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege because of the accumulation of points against the person's driving record are based on existing law. When the Registrar determines that the total points charged against any person exceed five, the Registrar must send a warning letter to the person at the person's last known address by regular mail. The warning letter must list the reported violations that are the basis of the points charged, list the number of points charged for each violation, and outline the suspension provisions. (R.C. 4507.021, repealed, and 4510.037(A).)

Remedial driving course. Any person against whom more than five but less than 12 points have been charged may obtain a credit of two points against the total points charged against the person by enrolling in a course of remedial driving instruction that is approved by the Director of Public Safety. The person may enroll only one time in a course of remedial driving instruction for that purpose. In a new provision, the bill prohibits the Registrar from deducting points for a person who completes an approved course of remedial driving instruction pursuant to a judge's order as a condition for the return of full driving privileges after a suspension imposed by the court ends. (R.C. 4507.021(L), repealed, and 4510.037(C).)

Points. When the total points charged against any person, within any two-year period beginning on the date of the first conviction within the two-year period

is equal to 12 or more, the Registrar must send a written notice to the person listing the reported violations that are the basis of the points charged, listing the number of points charged for each violation, and stating that because the total number of points charged against the person within the applicable two-year period is equal to 12 or more the Registrar is required to impose a Class D (six months) administrative suspension of the person's driver's or commercial driver's license or permit or nonresident operating privileges. The notice also must state that the suspension is effective unless the person files a petition in the appropriate court agreeing to pay the cost of the appeal proceeding and alleging that the person can show cause why the person's driver's or commercial driver's license or permit or nonresident operating privileges should not be suspended. (R.C. 4507.021(K), repealed, and 4510.037(B).)

Credit for judicial suspension. When a judge of a court of record suspends a person's driver's or commercial driver's license or permit or nonresident operating privilege and charges points against the person for the offense that resulted in the suspension, the Registrar must credit that period of suspension against the time of any subsequent suspension imposed for which those points were used to impose the subsequent suspension. Similarly, when a United States District Court suspends a person's driver's or commercial driver's license or permit or nonresident operating privileges and the District Court prepares an abstract and charges points against the person for the offense that resulted in the suspension, the Registrar must credit the period of suspension imposed by the District Court against the time of any subsequent suspension imposed for which the points were used to impose the subsequent suspension. (R.C. 4507.021(M), repealed, and 4510.037(D).)

Appeal. Upon the written request of a licensee who files a petition, the Registrar must furnish the licensee a certified copy of the Registrar's record of the convictions and bond forfeitures of the person, including the name, address, and date of birth of the licensee; the name of the court in which each conviction or bail forfeiture took place; the nature of the offense that was the basis of the conviction or bond forfeiture; and any other information that the Registrar considers necessary. If the record indicates that 12 points or more have been charged against the person within a two-year period, it is prima facie evidence that the person is a repeat traffic offender, and the Registrar must suspend the person's license, permit, or privilege.

In hearing the petition and determining whether the person filing the petition has shown cause why the person's license, permit, or privilege should not be suspended, the court must decide the issue on the record certified by the Registrar and any additional relevant, competent, and material evidence that either

the Registrar or the person whose license is sought to be suspended submits. (R.C. 4507.021(N), repealed, and 4510.037(E).)

Existing law and the bill establish who will represent the Registrar in the court proceedings, based on the court where the petition of appeal is filed. (R.C. 4507.021(N), repealed, and 4510.037(F).)

If the court determines that a person who filed a petition has failed to show cause why the person's license, permit, or privileges should not be suspended, the court must assess the cost of the appeal proceedings against the person and must impose the applicable suspension or suspend all or a portion of the suspension and impose any conditions of probation upon the person that the court considers proper. If the court determines that a person who filed a petition has shown cause why the person's license, permit, or privileges should not be suspended, the costs of the appeal proceeding are paid out of the county treasury of the county in which the proceedings were held. (R.C. 4507.021(N), repealed, and 4510.037(G).)

A person whose license, permit, or privileges are suspended based on the accumulation of points is not entitled to apply for or receive a new driver's or commercial driver's license or permit or to request or be granted nonresident operating privileges during the effective period of the suspension. When the suspension or other penalty involving the surrender of a license or permit is terminated and upon the request of the person whose license or permit was suspended or surrendered, the Registrar must return or reissue the license or permit to the person if the person has complied with all of the requirements for reinstatement (see below). (R.C. 4507.021(N), repealed, and 4510.037(H) and (I).)

Suspension violation. Under existing law and the bill, if a person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended as a repeat traffic offender operates any motor vehicle upon any public roads and highways during the suspension, the person is guilty of a misdemeanor of the first degree. The court must sentence the offender to a minimum term of three days in jail, and no court may suspend the first three days of the jail time. (R.C. 4507.021(N), repealed, and 4510.037(J).)

Law unaffected by the bill allows nonresidents to operate any motor vehicle upon any highway in this state without examination or a license upon the condition the nonresidents may be required to prove lawful possession of a motor vehicle or their right to operate a motor vehicle and to establish proper identity (R.C. 4507.04, not in the bill). Existing law and the bill recognize that when the Registrar has specific statutory authority, he may suspend the privilege of driving a

motor vehicle on the public roads and highways of this state that is granted to nonresidents (R.C. 4507.021(O), repealed, and 4510.037(K)).

Lifetime suspension modification

Under the bill, a person whose driver's or commercial driver's license has been suspended for life may file a motion with the sentencing court for modification or termination of the suspension; such a motion may be heard only once. The person filing the motion must demonstrate all of the following (R.C. 4510.54(A)):

(1) At least 15 years have elapsed since the suspension began.

(2) For the past 15 years, the person has not been found guilty of any felony, any offense involving a moving violation under federal law, the law of this state, or the law of any of its political subdivisions, or any violation of a license suspension under state law or a substantially equivalent municipal ordinance (see the definition of "moving violation" set forth above under "**Points assessed.**")

(3) The person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum required standard, or proof, to the satisfaction of the Registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in existing law.

(4) If the suspension was imposed because the person was under the influence of alcohol, a drug of abuse, or combination of them at the time of the offense, the person also must demonstrate all of the following: (a) that the person successfully completed an alcohol, drug, or alcohol and drug treatment program, (b) that the person has not abused alcohol or other drugs for a period satisfactory to the court, and (c) that for the past 15 years, the person has not been found guilty of any alcohol-related or drug-related offense.

Upon receipt of a motion for modification or termination of the lifetime suspension, the court may schedule a hearing on the motion. If scheduled, the hearing must be conducted in open court within 90 days after the motion is filed. The court must notify the person whose license was suspended and the prosecuting attorney of the date, time, and location of the hearing. The prosecuting attorney must notify the victim or the victim's representative of the date, time, and location of the hearing. The person who seeks modification or termination of the suspension has the burden to demonstrate, under oath, that the person meets the requirements under (1) through (4), above. At the hearing, the court must afford the offender or the offender's counsel an opportunity to present oral or written information relevant to the motion. The court also must afford a similar

opportunity to provide relevant information to the prosecuting attorney and the victim or victim's representative.

Before ruling on the motion, the court must take into account the person's driving record, the nature of the offense that led to the suspension, and the impact of the offense on any victim. In addition, if the offender is eligible for modification or termination of the suspension, the court must consider whether the person committed any offense other than a felony or a moving violation while under suspension and determine whether the offense is relevant to a modification of the lifetime suspension. The court may modify or terminate the suspension subject to any considerations it considers proper if it finds that allowing the person to drive is not likely to present a danger to the public. After the court makes a ruling on a motion filed, the prosecuting attorney must notify the victim or the victim's representative of the court's ruling. (R.C. 4510.54(B) to (D).)

If a court modifies a person's license lifetime suspension and the person subsequently is found guilty of any moving violation or of any substantially equivalent municipal ordinance that carries as a possible penalty the suspension of a person's driver's or commercial driver's license, the court may reimpose the lifetime suspension (R.C. 4510.54(E)).

Conditions for the return of full driving privileges

Existing law establishes the conditions under which any person whose driver's or commercial driver's license or permit is suspended, or who is put on probation or granted limited or occupational driving privileges, as a repeat traffic offender (points) or for OMVUAC, may retain the person's license, or to have the person's driving privileges reinstated. Such a person must comply with each of the following (R.C. 4507.022):

(1) The person must successfully complete a course of remedial driving instruction approved by the Director of Public Safety, provided the person commences taking the course after the person's driver's or commercial driver's license or permit is suspended and a minimum of 25% of the number of hours of instruction included in the course must be devoted to instruction on driver attitude.

(2) The person must submit to a driver's license examination or a physical examination, or both, and be found by the Registrar to be qualified to operate a motor vehicle.

(3) The person must give and maintain proof of financial responsibility.

The course required under (1), above, must devote a number of hours to instruction in the area of alcohol and drugs and the operation of motor vehicles.

The instruction must include, but not be limited to, a review of the laws governing the operation of a motor vehicle while under the influence of alcohol, drugs, or both, the dangers of operating a motor vehicle while under the influence of alcohol, drugs, or both, and other information relating to the operation of motor vehicles and the consumption of alcoholic beverages and use of drugs. The Director of Public Safety, in consultation with the Director of Alcohol and Drug Addiction Services, must prescribe the content of the instruction. The number of hours devoted to the area of alcohol and drugs and the operation of motor vehicles shall comprise a minimum of 25% of the number of hours of instruction included in the course. (R.C. 4507.022.)

The bill relocates these requirements for the return of full driving privileges and generally retains the conditions under which a person may regain full driving privileges. It removes the reference to the requirements applying to a person who is put on probation. It also removes the reference to the requirements applying to persons under suspension as a repeat traffic offender (points) or for OMVUAC and replaces it with a reference to the Revised Code section under which limited driving privileges may be granted.³

In regard to the course of remedial driving instruction that the person must complete, the bill eliminates the condition that the person commence taking the course after the person's license or permit is suspended. Consistent with the change from OMVI to OVI (see Part Two of the analysis), in five places the bill requires that the remedial course provide instruction in the operation of *vehicles*, not *motor vehicles*. In two places, it also replaces a reference in existing law to the operation of a motor vehicle while under the influence of alcohol, drugs, or *both* with a reference to alcohol, drugs, or *a combination of them*. (R.C. 4510.038.)

Limited driving privileges

The bill expands the concept of occupational driving privileges which may be granted during the time a driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege is suspended. For purposes of the Motor Vehicle Law and the penal laws, the bill defines "limited driving privileges" as the privilege to operate a motor vehicle that a court grants to a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended (R.C. 4501.01(OO)).

³ *The cross-reference in the bill to R.C. 4510.021 of the Revised Code is apparently incorrect. The correct cross-reference should be to R.C. 4510.036 of the Revised Code.*

In a new provision, the bill allows a court to grant limited driving privileges during any suspension imposed by the court, unless expressly prohibited by law. The bill requires that the privileges be granted for limited purposes, including, but not limited to, the following: (1) occupational, educational, vocational, or medical purposes, (2) taking the driver's or commercial driver's license examination, (3) attending court-ordered treatment, and (4) other reasonable purposes specified by the court. In granting the privileges, the court must specify the purposes, times, and places of the privileges and may impose any other reasonable conditions on the person's driving of a motor vehicle. (R.C. 4510.021(A).)

In a new provision, the bill establishes procedures governing the granting of limited driving privileges during an administrative suspension. Unless expressly authorized by law, the bill prohibits a court from granting limited driving privileges during any suspension imposed by the BMV. To obtain limited driving privileges during a suspension imposed by the BMV, a petition may be filed in a court of record in the county in which the person under suspension resides. A person who is not a resident of this state must file any petition for privileges in the Franklin County Municipal Court, and a minor must file any petition in the Franklin County Juvenile Court. (R.C. 4510.021(B).)

The bill authorizes a court, as a condition of granting limited driving privileges, to require that the offender's vehicle be equipped with an immobilizing or disabling device, when the use of an immobilizing or disabling device is not otherwise required by law (*see* "**Immobilizing or disabling device**," below). Also, the court must require the offender to provide proof of financial responsibility before granting limited driving privileges. (R.C. 4510.021(C) and (D).)

Immobilizing or disabling device

Existing law. Existing law prohibits any person from knowingly renting, leasing, or lending a motor vehicle to any offender with restricted driving privileges, unless the vehicle is equipped with a certified, functioning ignition interlock device; the prohibition does not apply in cases of a substantial emergency when no other person is reasonably available to drive in response to the emergency. Also under existing law, any offender with restricted driving privileges who rents, leases, or borrows a motor vehicle from another person must notify the person who rents, leases, or lends the motor vehicle to the offender that the offender has restricted driving privileges and of the nature of the restriction. Whoever violates either of these provisions is guilty of a first degree misdemeanor. (R.C. 4511.83(B) and 4511.99(J).)

Existing law allows any offender with restricted driving privileges who is required to operate a motor vehicle owned by the offender's employer in the course

and scope of the offender's employment to operate that vehicle without the installation of an ignition interlock device, provided that the employer has been notified that the offender has restricted driving privileges and of the nature of the restriction and provided further that the offender has proof of the employer's notification in the offender's possession while operating the employer's vehicle for normal business duties. A motor vehicle owned by a business that is partly or entirely owned or controlled by an offender with restricted driving privileges is not considered a motor vehicle owned by an employer, for purposes of driving privileges. (R.C. 4511.83(B)(3).)

If a court imposes the use of an ignition interlock device as a condition of granting of occupational driving privileges, the court must require the offender to provide proof of compliance to the court at least once quarterly or more frequently as may be ordered by the court. If a court imposes the use of an ignition interlock device as a condition of probation, the court must require the offender to provide proof of compliance to the court or probation officer prior to issuing any driving privilege or continuing the probation status. In either case in which a court imposes the use of such a device, the offender, at least once quarterly or more frequently as may be ordered, must have the device inspected for accurate operation and must provide the results of the inspection to the court or, if applicable, to the offender's probation officer. (R.C. 4511.83(C).)

Existing law requires the Director of Public Safety, upon consultation with the Director of Health, to certify ignition interlock devices and to publish and make available to the courts, without charge, a list of approved devices together with information about the manufacturers of the devices and where they may be obtained. The cost of obtaining the certification of an ignition interlock device must be paid by the manufacturer of the device to the Director of Public Safety and must be deposited in the Drivers' Treatment and Intervention Fund.

The Director of Public Safety must adopt and publish rules setting forth the requirements for obtaining the certification of an ignition interlock device. No ignition interlock device may be certified unless it meets the requirements specified and published by the Director in rules the Director adopts. The requirements must include provisions for setting a minimum and maximum calibration range and also must include, but may not be limited to, specifications that the device complies with all of the following (R.C. 4511.83(D)):

- (1) It does not impede the safe operation of the vehicle.
- (2) It has features that make circumvention difficult and that do not interfere with the normal use of the vehicle.
- (3) It correlates well with established measures of alcohol impairment.

- (4) It works accurately and reliably in an unsupervised environment.
- (5) It is resistant to tampering and shows evidence of tampering if tampering is attempted.
- (6) It is difficult to circumvent and requires premeditation to do so.
- (7) It minimizes inconvenience to a sober user.
- (8) It requires a proper, deep-lung breath sample or other accurate measure of the concentration by weight of alcohol in the breath.
- (9) It operates reliably over the range of automobile environments.
- (10) It is made by a manufacturer who is covered by product liability insurance.

In the certification or approval of ignition interlock devices, the Director of Public Safety may adopt the guidelines, rules, regulations, studies, or independent laboratory tests performed and relied upon by other states, or their agencies or commissions.

Existing law requires the Director of Public Safety to adopt rules for the design of a warning label that must be affixed to each ignition interlock device upon installation. The label must contain a warning that any person tampering, circumventing, or otherwise misusing the device is subject to a fine, imprisonment, or both and may be subject to civil liability.

Existing law prohibits all of the following: (1) any offender with restricted driving privileges, during any period that the offender is required to operate only a motor vehicle equipped with an ignition interlock device, from requesting or permitting any other person to breathe into the device or start a motor vehicle equipped with the device, for the purpose of providing the offender with an operable motor vehicle, (2) any person, other than the offender, from breathing into an ignition interlock device or starting a motor vehicle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle to an offender with restricted driving privileges, and (3) any unauthorized person from tampering with or circumventing the operation of an ignition interlock device. Violation of any of these prohibitions is a first degree misdemeanor. (R.C. 4511.83(E), repealed, and 4511.99(J).)

The bill. The bill reorganizes, but retains much of the law discussed above. However, the bill allows the use of an "immobilizing or disabling device"; it is not restricted to ignition interlock devices. The bill defines an "immobilizing or

disabling device" as a device approved by the Director of Public Safety that may be ordered by a court to be used by an offender as a condition of limited driving privileges. "Immobilizing or disabling device" includes a prototype device that is used according to protocols designed to ensure efficient and effective monitoring of limited driving privileges granted by a court to an offender. (R.C. 4510.01(D).) A "prototype device" is defined by the bill as any testing device to monitor limited driving privileges that has not yet been approved by the Director of Public Safety (R.C. 4510.01(F)).

As under existing law, the bill requires the Director of Public Safety, upon consultation with the Director of Health and in accordance with the Administrative Procedure Act, to certify immobilizing and disabling devices and publish and make available to the courts, without charge, a list of approved devices together with information about the manufacturers of the devices and where they may be obtained. The manufacturer of an immobilizing or disabling device continues to be required to pay the cost of obtaining the certification of the device, and the payments are deposited in the Drivers' Treatment and Intervention Fund. As under existing law, the bill requires the Director of Public Safety to adopt in accordance with the Administrative Procedure Act and publish rules setting forth the requirements for obtaining the certification of an immobilizing or disabling device. The Director cannot certify an immobilizing or disabling device unless it meets the requirements specified and published by these rules. In a new provision, the bill specifies that a certified device may consist of a breath-alcohol ignition interlock device, an ignition blocking device initiated by time or magnetic or electronic encoding, an activity monitor, or any other device that reasonably assures compliance with an order granting limited driving privileges.

As under existing law, the Director of Public Safety may adopt the guidelines, rules, regulations, studies, or independent laboratory tests performed and relied upon by other states, or their agencies or commissions, in the certification or approval of immobilizing or disabling devices. (R.C. 4510.43(A)(1), (2), and (3).)

The bill relocates but does not change the requirements for the design of a warning label that must be affixed to each immobilizing or disabling device upon installation (R.C. 4510.43(A)(4)).

The bill allows for the use of a prototype device. A court considering the use of a prototype device in a pilot program must advise the Director of Public Safety, 30 days before the use, of the prototype device and its protocol, methodology, manufacturer, and licensor, lessor, other agent, or owner, and the length of the court's pilot program. A prototype device may not be used for a

violation of driving under OVI suspension, OVI, or implied consent for OVI testing. (R.C. 4510.43(B).)

The bill continues to permit an offender with limited driving privileges who is required to operate a motor vehicle owned by the offender's employer in the course and scope of the offender's employment to operate that vehicle without the installation of an immobilizing or disabling device, provided that the employer has been notified that the offender has limited driving privileges and of the nature of the restriction. The bill continues to require that proof of the employer's notification be in the offender's possession while operating the employer's vehicle for normal business duties. As under existing law, a motor vehicle owned by a business that is partly or entirely owned or controlled by an offender with limited driving privileges is not a motor vehicle owned by an employer. (R.C. 4510.43(C).)

The prohibitions related to use of an immobilizing or disabling device and tampering with or circumventing the operation of an immobilizing or disabling device are relocated but retained by the bill and the offense continues to be a first degree misdemeanor. (R.C. 4510.44.)

Driving under suspension

Under existing law, no person, whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended or revoked under any provision of the Revised Code other than financial responsibility, or under any applicable law in any other jurisdiction in which the person's license or permit was issued, may operate any motor vehicle upon the highways or streets within this state during the period of the suspension or within one year after the date of the revocation. No person who is granted occupational driving privileges by any court may operate any motor vehicle upon the highways or streets in this state except in accordance with the terms of the privileges. (R.C. 4507.02(D)(1).) Driving under suspension is a first degree misdemeanor under existing law, and the court also may impose an additional suspension of the person's license, permit, or privilege for up to one year driving under suspension (R.C. 4507.99(A)).

The bill relocates the prohibition against driving under suspension and the penalty for a violation of the offense. It also removes the restriction against operating a motor vehicle within one year after the date of a revocation, because licenses are no longer revoked under the bill. Under the bill, there is no specific prohibition against a person who is granted occupational driving privileges by any court operating a motor vehicle upon the highways or streets in this state except in accordance with the terms of the privileges; rather, the bill prohibits a person whose license, permit, or privilege has been suspended from operating a motor

vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within this state during the period of suspension unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges. (R.C. 4510.11(A).)

Under the bill, driving under suspension continues to be a first degree misdemeanor. The bill requires a court to impose for the offense a Class 6 (definite period not to exceed one year) suspension of the person's license, permit, or privilege. (R.C. 4510.11(B)(1).)

Existing law does not require the immobilization of a vehicle involved in a driving under suspension offense. In addition to any other penalty imposed on the offender, the bill requires the court to order the immobilization of the vehicle involved in the offense (if the vehicle is registered in the offender's name) and to order the impoundment of the vehicle's license plates, as follows (R.C. 4510.11(B)(2), (3), and (4)):

(1) If the offender previously has not been convicted of or pleaded guilty to a violation of driving under suspension or of a substantially similar municipal ordinance, the immobilization and impoundment is for 30 days.

(2) If the offender previously has been convicted of or pleaded guilty to one violation of driving under suspension or of a substantially similar municipal ordinance, the immobilization and impoundment is for 60 days.

(3) If the offender previously has been convicted of or pleaded guilty to two or more violations of driving under suspension or of a substantially similar municipal ordinance, the vehicle involved in the offense is forfeited to the state.

Any order for immobilization and impoundment must be issued and enforced under established procedures. The court may not release a vehicle from immobilization unless the court is presented with current proof of financial responsibility with respect to that vehicle. (R.C. 4510.11(C).)

Any order of criminal forfeiture must be issued and enforced under established procedures. Upon receipt of the copy of the order from the court, neither the Registrar nor a deputy registrar may accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial is five years after the date of the order, unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar then must take necessary

measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle. (R.C. 4510.11(D).)

Probationary license or temporary instruction permit

Suspension

Existing law. Existing law requires the Registrar to suspend for one year the probationary driver's license, restricted license, or temporary instruction permit of any person who has been convicted of, pleaded guilty to, or been adjudicated in juvenile court of having committed, prior to the person's 18th birthday, three separate violations of specified traffic laws or similar ordinances. A minor's probationary or restricted license is suspended for a period of six months for one OMVI violation. Existing law also requires the Registrar to suspend for 90 days the probationary driver's license, restricted license, or temporary instruction permit of any person who has been convicted of, pleaded guilty to, or been adjudicated in juvenile court of having committed, prior to the person's 18th birthday, two violations of specified traffic laws or similar ordinances.

Also under existing law, if the person is at least 16 years of age when he pleads guilty to or is convicted of the offense, but does not have a current, valid probationary driver's or restricted license, the Registrar must deny the issuance to the person of a probationary driver's license, restricted license, driver's license, probationary commercial driver's license, commercial license, or temporary instruction permit. The issuance denial is for a period of six months beginning on the date the court imposes sentence. If the person is under 16 years of age when the court imposes sentence, the period of denial begins on the date the person becomes 16. (R.C. 4507.162(A), repealed.)

The bill. The bill replaces the juvenile suspensions discussed above with a repeat offender, or point system, applicable to juveniles. Under the bill, when the Registrar determines that any person with a probationary driver's license or temporary instruction permit has been charged with six or more points within any two-year period beginning on the date of the first conviction within the two-year period, the Registrar must send a written notice by regular mail to the person at the person's last known address. (See, "**Repeat traffic offender license suspension (accumulation of points on driving record)**" above.) The notice must list the reported violations that are the basis of the points charged, list the number of points charged for each violation, and state that because the total number of points charged against the person within the applicable two-year period is equal to six or more, the Registrar is required to impose a Class C (one year) administrative suspension of the person's probationary driver's license or temporary instruction permit.

The notice also must state that the suspension is effective on the 20th day after the mailing of the notice, unless the person files a petition in the municipal court, county court, or, if the person is under 18, the juvenile division of the court of common pleas in whose jurisdiction the person resides. By filing the appeal, the person agrees to pay the cost of the appeal proceeding and alleges that the person can show cause why the person's probationary driver's license or temporary instruction permit should not be suspended. (R.C. 4510.31(A).)

The bill retains the provision of existing law requiring the Registrar to suspend until the person reaches 18 (or, at the discretion of the court, attends and satisfactorily completes a drug abuse or alcohol abuse education, intervention, or treatment program specified by the court) the temporary instruction permit or probationary driver's license of any person under 18 who has been adjudicated an unruly child, a delinquent child, or a juvenile traffic offender for having committed any act that if committed by an adult would be a drug abuse offense or for an alcohol-related disorderly conduct offense. (R.C. 4507.162(B), repealed, and 4510.31(B).)

Driving privileges

Existing law. A court may grant occupational driving privileges to a minor who has three or more moving violations, unless the person has been convicted of three or more OMVI violations in the preceding seven years. The court that grants the occupational driving privileges retains the person's probationary, restricted license, or temporary instruction permit, and the Registrar may not suspend the probationary driver's license or restricted license of any person during the period for which the person is granted occupational driving privileges. If the person who was granted occupational driving privileges is convicted of, pleads guilty to, or is adjudicated in a juvenile court of operating a motor vehicle in violation of the occupational privilege or if the person commits a fourth moving violation, the court must revoke the occupational driving privileges and forward the person's license to the Registrar. The Registrar must suspend the license for a period of one year. (R.C. 4507.162(C) and (D).)

The bill. Under the bill, if a person has been charged with six or more points within a two-year period, the court may grant the person limited driving privileges if the court finds (1) that the person will reach the person's 18th birthday before the required period of suspension expires, and (2) reasonable cause to believe that the suspension, if continued beyond the person's 18th birthday, will seriously affect the person's ability to continue in employment, education, vocational training, or treatment. The driving privileges are effective on the person's 18th birthday and during the period following that birthday for which the suspension otherwise would be imposed.

A court that grants limited driving privileges to a person retains the person's probationary driver's license or temporary instruction permit during the period the license or permit is suspended and also during the period for which limited driving privileges are granted. The court must deliver to the person a permit card, in a form to be prescribed by the court, setting forth the date on which the limited driving privileges will become effective, the times and places at which the person may drive, and any other conditions imposed upon the person's use of a motor vehicle.

The court immediately must give the Registrar written notice of a grant of limited driving privileges. The notification must specify the date on which the driving privileges will become effective, the times and places at which the person may drive, and any other conditions imposed upon the person's use of a motor vehicle. If the Registrar receives the notice from the court, the Registrar may not suspend the probationary driver's license, restricted license, or temporary instruction permit of any person during any period for which the person has been granted limited driving privileges. (R.C. 4507.162(C) and (D), repealed, and 4510.31(C).)

If a person who has been granted limited driving privileges is convicted of, or is adjudicated in juvenile court of having committed, a violation of the requirement to have a valid license and not operate a motor vehicle when that license is under suspension, or specified traffic laws, or any similar municipal ordinance during the period for which the person was granted the driving privileges, the court that granted the privileges must suspend the person's permit card. The court or the clerk of the court immediately must forward the person's probationary driver's license, restricted license, or temporary instruction permit together with written notification of the court's action to the Registrar. Upon receipt of the license or permit and notification, the Registrar must impose a Class C (one year) administrative suspension. The Registrar must retain the license or permit during the period of suspension, and no further limited driving privileges may be granted during that period. (R.C. 4507.162(D), repealed, and 4510.31(D).)

Under existing law and the bill, no application for a driver's or commercial driver's license may be received from any person whose probationary driver's license, restricted license, or temporary instruction permit has been suspended until each of the following has occurred (R.C. 4507.162(E), repealed, and 4510.31(E)):

- (1) The suspension period has expired.
- (2) A temporary instruction permit or commercial driver's license temporary instruction permit has been issued.

(3) The person successfully completes an approved juvenile driver improvement program.

(4) The applicant has submitted to the examination for a driver's license or a commercial driver's license as provided in law.

Juvenile driver improvement programs

The bill relocates a provision of existing law requiring the Registrar to establish standards for juvenile driver improvement programs and to approve any programs that meet the established standards. The standards and course requirements are retained under the bill. Only those programs approved by the Registrar are acceptable for reinstatement of the driving privileges of a person whose probationary driver's license was suspended. (R.C. 4507.162(F), repealed, and 4510.311.)

Suspension for causing death while fleeing an officer

Existing law authorizes a court to suspend the driver's or commercial driver's license of any person who is convicted of or pleads guilty to causing the death of another, as the proximate result of operating a motor vehicle, while eluding or fleeing a police officer. The suspension is to be for a period of ten years, and the Registrar may not issue to the offender another driver's or commercial driver's license during the effective date of the suspension. Any person who is convicted or pleads guilty to a second violation of causing the death of another while eluding or fleeing a police officer by motor vehicle has his license suspended for life. (R.C. 4507.166.)

Separately, existing Criminal Law also establishes the offense of failure to comply with an order or signal of a police officer. A violation of the offense is a first degree misdemeanor, except that a violation is a felony of the fourth degree if the person operated a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring his motor vehicle to a stop and if the jury or judge as trier of fact finds any one of the following by proof beyond a reasonable doubt (R.C. 2921.331):

(1) In committing the offense, the offender was fleeing immediately after the commission of a felony.

(2) The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property.

(3) The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

The bill repeals the section requiring the suspension of the driver's or commercial driver's license of any person who is convicted of or pleads guilty to causing the death of another, as the proximate result of operating a motor vehicle, while eluding or fleeing a police officer (R.C. 4507.166, repealed). It relocates the suspension to the Criminal Law section creating the offense. Under the bill, the court must impose a Class 1 (definite period of three years to life) suspension for the offense. If the offender previously has been found guilty of such an offense, the court must impose a Class 7 lifetime suspension. Additionally, the court is specifically prohibited from granting limited driving privileges to an offender whose license is suspended for this violation. (R.C. 2921.331.)

Affirmative defenses

Existing law establishes affirmative defenses for operating a motor vehicle in violation of a suspension order. It is an affirmative defense to any prosecution brought for a violation of a financial responsibility suspension order, an OMVI suspension order, or any other suspension order that the alleged offender drove under suspension or in violation of a restriction because of a substantial emergency, provided that no other person was reasonably available to drive in response to the emergency. Existing law also establishes an additional, specific affirmative defense for a financial responsibility suspension violation that the order of suspension resulted from the failure of the alleged offender to respond to a financial responsibility random verification request and that, upon a showing of proof of financial responsibility, the alleged offender was in compliance with the financial responsibility requirements at the time of the initial financial responsibility random verification request. (R.C. 4511.192 and 4507.02(E).)

The bill combines and relocates these affirmative defenses. Under the bill, it is an affirmative defense to any prosecution brought under any provision of the Motor Vehicle Law (Title 45), any provision of the Criminal Law (Title 29), or a substantially equivalent municipal ordinance that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency. The bill relocates without change, the affirmative defense specific to a financial responsibility suspension arising from a failure to respond to a random verification request. (R.C. 4510.04.)

Suspension for violation of a substantially similar municipal ordinance

Existing law generally authorizes a court to suspend or revoke an offender's driver's or commercial driver's license or permit for the period of time the court determines appropriate, whenever an offender is convicted of or pleads guilty to a

violation of a municipal ordinance that is substantially similar to a provision of state law and the court is permitted or required to suspend or revoke a person's driver's or commercial driver's license or permit by state law. The suspension or revocation is in addition to any other penalties the court is authorized by law to impose upon the offender, but in no case may the court impose a suspension for the violation of the municipal ordinance in excess of the period of suspension that is permitted or required to be imposed for the violation of state law. (R.C. 4507.1611.)

The bill relocates this provision, eliminates the references to revocation (see "**Terminology**"), and adds authority for a court to suspend nonresident operating privileges (R.C. 4510.05). Also under the bill, a court imposing a sentence upon an offender for any violation of a municipal ordinance substantially equivalent to a violation of specified offenses must impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the appropriate specified classification range that is equivalent in length to the suspension required for a violation of state law under similar circumstances. The specified offenses include: (1) aggravated vehicular homicide, (2) vehicular homicide, (3) vehicular manslaughter, (4) soliciting another to engage in sexual activity for hire, (5) OVI, or (6) OMVUAC. (R.C. 4510.07.) A specific reference to these required suspensions is added to the law generally authorizing a court to suspend a license, permit, or privilege for substantially similar municipal offenses.

Examination of licensee's competency

Existing law authorizes the Registrar to require a person to submit to a driver's license examination or a physical examination, or both, or a commercial driver's license examination under either of the following circumstances (R.C. 4507.20):

- (1) Upon determination that any person has more than seven points charged against him and is not eligible to retain the license or have it returned;
- (2) Having good cause to believe that the holder of a driver's or commercial driver's license is incompetent or otherwise not qualified to be licensed.

The Registrar must provide written notice of at least five days sent to the licensee's last known address. Upon the conclusion of the examination, the Registrar may suspend or revoke the license of the person, may permit the person to retain the license, or may issue the person a restricted license. A refusal or neglect of the licensee to submit to the examination is ground for suspension or revocation of his license.

The bill eliminates the Registrar's authority to require the examination upon the person having seven points charged against him and requires the Registrar to provide written notice of at least 30 days, rather than five. The bill also eliminates the authority of the Registrar to revoke the person's license (see "*Terminology*"). (R.C. 4507.20.)

Temporary instruction permits

Restrictions on issuance

Under existing law, no temporary instruction permit or driver's license may be issued to any person whose license has been suspended during the period for which the license was suspended. Also, no permit or license may be issued to any person whose license has been revoked under any provision of Driver's License Law (R.C. 4507.01 to 4507.39) until the expiration of one year after the license was revoked. In addition to changing "revoked" to "canceled" (see "*Terminology*"), the bill eliminates the restriction on permit or license issuance "until the expiration of one year after the license was revoked." The bill also eliminates a restriction against any temporary instruction permit or driver's license being issued to or retained by any person whose driver's or commercial driver's license has been permanently revoked pursuant to "division (C) of section 4507.16."⁴ (R.C. 4507.08.)

Terminology

Existing law defines "suspension" or "revocation," when applied to a driver's license, as the withdrawal from a resident, temporary resident, or nonresident of the privilege to operate a motor vehicle upon a street or highway in this state. It further specifies that the withdrawal of the privilege from a person causes the person to be ineligible for the privilege during the entire period of the suspension or revocation and including any period during which the resident, temporary resident, or nonresident either has not paid any applicable driver's license reinstatement fee or has not complied with any other requirement governing license reinstatement. (R.C. 4507.012, repealed.)

For purposes of the Motor Vehicles Law (Title 45) and the Criminal Code (Title 29), the bill standardizes the terms used to take punitive or administrative action against a person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege. The

⁴ *The reference in existing law to a license or permit that has been permanently revoked pursuant to division (C) of R.C. 4507.16 is incorrect in existing law because division (C) of R.C. 4507.16 does not authorize permanent revocation.*

bill defines "cancel" or "cancellation" as the annulment or termination by the BMV of a driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege because it was obtained unlawfully, issued in error, altered, or willfully destroyed, or because the holder no longer is entitled to the license, permit, or privilege. The bill defines "suspend" or "suspension" as the permanent or temporary withdrawal, by action of a court or BMV, of a driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of the suspension or the permanent or temporary withdrawal of the privilege to obtain a license, permit, or privilege of that type for the period of the suspension. (R.C. 4510.01(A) and (G).)

Throughout the bill, other references to actions that may be taken against a driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege are removed and replaced with either "cancel" or "suspend," as appropriate. Terms that are removed include "revoke" or "revocation," "deny" or "denial," and "forfeit" or "forfeiture." The following Revised Code sections are included in the bill to conform the terminology used to describe an action taken against a license, permit, or privilege; the sections may have other technical changes but have no substantive changes: R.C. 119.062, 1905.201, 2151.354, 2151.355, 3327.10, 3937.31, 4501.022, 4503.39, 4507.023, 4507.06, 4507.081, 4507.164, 4507.17, 4507.19, 4507.45, 4507.50, 4509.33, 4509.34, 4509.81, and 4510.52.

The bill also standardizes references to drivers' licenses. It uses the phrase "driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege" whenever the application of the particular provision of law is intended to be comprehensive.

Miscellaneous

Disposition of license

Under existing law, any person whose driver's or commercial driver's license has been suspended or revoked under the general suspension provisions (R.C. 4507.16) and who desires to retain the license during the pendency of an appeal, at the time sentence is pronounced, must notify the court that suspended or revoked the license of his intention to appeal. The court, mayor, or clerk of the court must retain the license until the appeal is perfected, and, if execution of sentence is stayed, the license is returned to the accused to be held by him during the pendency of the appeal. If the appeal is not perfected or is dismissed or terminated in an affirmance of the conviction, then the license is taken up by the court, mayor, or clerk, at the time of putting sentence into execution, and the court

proceeds in the same manner as if no appeal was taken. The bill repeals this provision. (R.C. 4507.18, repealed.)

BMV fee

In several instances including suspension for failure to appear or pay a fine, existing law requires a court to charge and collect from the offender, a \$15 processing fee that the clerk of the court transmits monthly to the Registrar to cover the costs of the BMV in administering the license suspension. Under the bill, the person whose license, permit, or privilege is being suspended must pay the fee directly to the BMV. (R.C. 4510.22.)

Child support enforcement

Existing law requires a court or child support enforcement agency to notify the Registrar when a person who holds a driver's or commercial driver's license, motorcycle operator's license or endorsement, temporary instruction permit, or commercial driver's temporary instruction permit is in default under a child support order. The Registrar and all deputy registrars are prohibited from issuing to, or renewing for, the individual any such license, endorsement, or temporary instruction permit. The bill requires the Registrar to impose a Class F (until conditions are met) suspension (see Appendix). It also explicitly requires the Registrar to comply with the law with respect to any driver's or commercial driver's license or permit, motorcycle operator's license or endorsement, or temporary instruction permit issued by the state that is subject to a notice received by the Registrar from a court or child support enforcement agency. (R.C. 2301.374.)

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