



Bill Analysis

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(Part Three: Analysis of Speed Limit, Arrest, Bond, Commercial Driver's License and Training Schools, and Miscellaneous Changes
Portions of the Bill)

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BILL SUMMARY

- Eliminates the requirement that a law enforcement officer arrest a person who refuses to sign a minor misdemeanor traffic citation.
- Permits a court to establish by local rule a reasonable security that can be posted by a traffic offender who is an Ohio resident and is not licensed to operate a motor vehicle or is a resident of a state that is not a member of the Nonresident Violator Compact, instead of requiring such a person to appear in court for the determination of a reasonable security.
- Requires certain fees charged in connection with the reinstatement of a driver's license to be paid to the Bureau of Motor Vehicles rather than to a court.
- Provides that a conviction for a violation of the Driver's License Law or the new chapter dealing with driver's license suspensions are not previous or subsequent convictions for purposes of the definition of "first offender" in the expungement law.
- Modifies the types of traffic offenses to which the expungement law does not apply.
- Exempts from the commercial driver's license law the operator of a motor vehicle that is designed primarily for the transportation of goods and not persons and that is used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise.

- Eliminates the authority of the Registrar to require a person with seven points against the person's license to take the driver's exam, physical exam, or both and requires the Registrar, when the Registrar orders a person to take the driver's exam, a physical exam, or both when the Registrar has good cause to believe that the person should not have a driver's license, to give the person 30 days notice instead of five days notice of the requirement to take the exam.
- Specifically prohibits operating a commercial driver training school without a valid license, provides a penalty for acting as a driver training instructor without a valid license, prohibits making a false statement on a driver training instructor license application, and makes other changes to the law dealing with driver training schools.
- Reduces a second speeding violation within a one-year period from a misdemeanor of the fourth degree to a minor misdemeanor.
- Reduces a third speeding violation within a one-year period from a misdemeanor of the third degree to a misdemeanor of the fourth degree.
- Permits the sentencing court, on a third or subsequent speeding violation within a one-year period, to suspend the offender's driver's or commercial driver's license or permit or nonresident operating privilege for a definite period not exceeding one year.
- Alters the driver's license points system regarding points for speeding violations by providing for the assessment of points only in the following ways: (1) if the speed of the violator exceeded the speed limit by 30 miles per hour or more, four points, (2) if the speed of the violator exceeded the speed limit of 55 miles per hour or more by more than ten miles per hour, four points, and (3) if the speed of the violator exceeded the speed limit of less than 55 miles per hour by more than five miles per hour, two points.
- Requires the suspension for not less than six months but not more than three years of the driver's or commercial driver's license or permit or nonresident operating privilege of a person who fails to stop after being involved in a motor vehicle accident.
- Generally relocates the penalty provisions for all violations of any prohibition contained in R.C. Title XLV from the ".99" section to the

section that actually sets forth the prohibition in question, and accordingly, generally repeals the ".99" sections.

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CONTENT AND OPERATION

Overview

Part Three of the analysis of S.B. 176 addresses speed limit violations, arrest and bond law, commercial driver's license law, commercial driver training schools, and miscellaneous, conforming, technical, or nonsubstantive changes made by the bill.

Changes in traffic offense-related arrest and bond laws

Issuance of a citation for a minor misdemeanor

Current law provides that notwithstanding any other provision of law, when a law enforcement officer otherwise is authorized to arrest a person for the commission of a minor misdemeanor, the officer cannot arrest the person but instead must issue the person a citation, unless one of the following applies (R.C. 2935.26(A) and (C)):

- (1) The offender requires medical care or is unable to provide for his own safety.
- (2) The offender cannot or will not offer satisfactory evidence of his identity.
- (3) The offender refuses to sign the citation.

(4) The offender previously has been issued a citation for the commission of that misdemeanor and has failed to do one of the following:

(a) Appear at the time and place stated in the citation;

(b) Appear in person at the office of the clerk of the court stated in the citation, sign the plea of guilty and waiver of trial provision that is on the citation, and pay the total amount of the fine and costs;

(c) Sign the guilty plea and waiver of trial provision on the citation and mail the citation and a check or money order for the total amount of the fine and costs to the office of the clerk of the court stated in the citation.

The bill eliminates refusal to sign a citation as a ground for arresting a person who has committed a minor misdemeanor (repeal of existing R.C. 2935.26(A)(3)).

Issuance of a citation for a minor misdemeanor that requires the setting of security

Current law provides that if a law enforcement officer issues a citation to a person for a state or local minor misdemeanor motor vehicle operation or equipment offense or minor misdemeanor motor vehicle crime and the person is an Ohio resident who does not have a current valid Ohio driver's or commercial driver's license or if the person is a resident of a state that is not a member of the Nonresident Violator Compact (Ohio is a member), the officer must bring the person before the court with which the citation is required to be filed for the setting of a reasonable security by the court in accordance with applicable law (R.C. 2935.27(A)(2)).

Under the bill, if a law enforcement officer issues a citation to a person for a state or local minor misdemeanor motor vehicle operation or equipment offense or minor misdemeanor motor vehicle crime and the person is an Ohio resident but does not have a current valid Ohio driver's or commercial driver's license or if the person is a resident of a state that is not a member of the Nonresident Violator Compact, the court, by local rule, may prescribe a procedure for the setting of a reasonable security by the court in accordance with applicable law. As an alternative to this procedure, that court by local rule may prescribe a procedure for the setting of a reasonable security by the person without the person appearing before the court. (R.C. 2935.27(A)(2).)

Penalty for failure to appear after release

Current law. Current law prohibits a person who is charged with a crime and is released on his own recognizance from failing to appear as required. The penalty in such a case is as follows (R.C. 2937.29 and 2937.99):

(1) If the release was in connection with a charge of the commission of a felony or pending appeal after conviction of a felony, the person must be fined not more than \$5,000, imprisoned in a state correctional institution for not less than one but more than five years, or both.

(2) If the release was in connection with a charge of the commission of a misdemeanor or for appearance as a witness, the person must be fined not more than \$1,000, imprisoned not more than one year, or both.

These provisions do not apply to misdemeanors arising under R.C. Chapters 4501. (motor vehicles--general provisions), 4503. (motor vehicle registration), 4505. (motor vehicle certificates of title), 4507. (driver's licenses), 4509. (financial responsibility), 4511. (motor vehicle traffic code), 4513. (motor vehicle equipment laws), 4517. (motor vehicle dealers), 4549. (motor vehicle crimes), and 5577. (motor vehicle weight limits and maximum dimensions) or to related ordinance offenses. These provisions do apply, however, to the offenses of state OMVI, failure to stop after an accident on a public road or highway, failure to stop after an accident on any public or private property other than public roads or highways, and ordinance offenses related to these three state offenses.

Operation of the bill. Under the bill, a person who is charged with a crime, released on his own recognizance, and fails to appear as required is guilty of the offense of "failure to appear." The penalty for that offense is as follows (R.C. 2937.99(A)(1) and (2)):

(1) If the release was in connection with a felony charge or pending appeal after conviction of a felony, failure to appear is a felony of the third degree.

(2) If the release was in connection with a misdemeanor charge or for appearance as a witness, failure to appear is a misdemeanor of the first degree.

The bill retains the exceptions to these provisions contained in current law, but adds a reference to new R.C. Chapter 4510. (driver's license suspension provisions), thereby making the failure to appear provisions inapplicable to violations of that chapter (R.C. 2937.99(B)).

Payment of certain BMV fees directly to the BMV instead of to a court

Current law

Current law permits a court to declare the forfeiture of a person's driver's or commercial driver's license under the following circumstances:

(1) The person is issued a citation for a minor misdemeanor traffic offense, and the person either fails to appear at the time and place specified in the citation, fails to sign the guilty plea and waiver of trial provision on the citation and pay the fine and costs either in person or by mail, or fails to comply with or satisfy any judgment of the court within the time allowed by the court (R.C. 2935.27(D)).

(2) The person is arrested for committing one of a number of specified traffic offenses, the person deposits his Ohio driver's or commercial driver's license with the arresting officer or the local court as bond, and fails to appear in court at the date and time set by the court or fails to satisfy the judgment of the court (R.C. 2937.221(A)).

(3) The person is charged with a traffic offense that is a misdemeanor of the first, second, third, or fourth degree, and the person either fails to appear in court at the required time and place to answer the charge or pleads guilty to or is found guilty of the violation and fails within the time allowed by the court to pay the fine imposed (current R.C. 4507.168(A), renumbered R.C. 4510.22(A)).

In all cases involving these provisions, the court informs the Registrar of the forfeiture, and the person cannot be granted a driver's or commercial driver's license until the court having jurisdiction of the offense that led to the forfeiture orders that the forfeiture be terminated. If the forfeiture is terminated, the court is required to charge and collect from the person a processing fee of \$15 to cover the costs the BMV incurs in administering its duties relating to these provisions. The clerk of the court transmits all these processing fees to the existing State Bureau of Motor Vehicles Fund. (R.C. 2935.27(D), 2937.221(A), and renumbered 4510.22(A).)

Operation of the bill

The bill requires the person whose license is reinstated to pay the processing fee to the Bureau of Motor Vehicles, rather than to the court (R.C. 2935.27(D), 2937.221(A), and 4510.22(A)).

Changes in the expungement laws

Current law, generally

Current law generally permits a first offender to apply to the sentencing court if convicted in this state, or to a court of common pleas if convicted in another state or in a federal court, for the sealing of the offender's conviction record. The application may be made at the expiration of three years after the offender's final discharge if convicted of a felony or one year after final discharge if convicted of a misdemeanor. Similarly, any person who has been arrested for any misdemeanor offense and who has effected a bail forfeiture generally may apply to the court in which the misdemeanor criminal case was pending when bail was forfeited for the sealing of the record of the case. The application may be filed at any time after the expiration of one year from the date on which the bail forfeiture was entered upon the minutes of the court or the journal, whichever entry occurs first.

The court sets a hearing date and notifies the prosecutor for the case of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the hearing date but must specify in the objection the reasons for believing a denial of the application is justified. The court must direct its regular probation officer, a state probation officer, or the probation department of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant.

If the court determines that the applicant is a first offender or the subject of a bail forfeiture, that no criminal proceeding is pending against the applicant, and that the interests of the applicant in having the records pertaining to the applicant's conviction or bail forfeiture sealed are not outweighed by any legitimate governmental needs to maintain such records, and that the rehabilitation of an applicant who is a first offender has been attained to the satisfaction of the court, the court, with limited exceptions, must order all official records pertaining to the case sealed and generally all index references to the case deleted. In the case of bail forfeitures, the court must dismiss the charges in the case. The proceedings in the case are considered not to have occurred, and the conviction or bail forfeiture of the person who is the subject of the proceedings must be sealed, except that, upon conviction of a subsequent offense, a court may consider the sealed record of the prior conviction or bail forfeiture in determining the sentence or other appropriate disposition. (R.C. 2953.32(A) to (C), not in the bill.)

For purposes of these provisions, "first offender" means the following (R.C. 2953.31(A)):

anyone who has been convicted of an offense in this state or any other jurisdiction, and who previously or subsequently has not been convicted of the same or a different offense in this state or any other jurisdiction. When two or more convictions result from or are connected with the same act, or result from offenses committed at the same time, they shall be counted as one conviction.

For purposes of this definition, and except as otherwise provided below or in the definition, a conviction for a minor misdemeanor, a conviction for a violation of any section in R.C. Chapter 4511. (motor vehicle traffic code), 4513. (motor vehicle equipment laws), or 4549. (motor vehicle crimes), or a conviction for a violation of a municipal ordinance that is substantially similar to any section in those chapters, is not a previous or subsequent conviction. A conviction for a violation of certain specified R.C. sections, however, *is* considered a previous or subsequent conviction. These sections are as follows: 4511.19 (state OMVI), 4511.192 (driving with a suspended license), 4511.251 (street racing), 4549.02 (failure to stop after an accident on a public road or highway), 4549.021 (failure to stop after an accident on any public or private property other than public roads or highways), 4549.03 (failure to stop after an accident involving damage to realty), 4549.042 (illegal sale or possession of a master key), and 4549.41 to 4549.46 (offenses relating to motor vehicle odometers). In addition, a conviction for a violation of a municipal ordinance that is substantially similar to any of these sections also is considered a previous or subsequent conviction. (R.C. 2953.31(A).)

Operation of the bill

The bill provides that for purposes of the definition of "first offender" and except as otherwise provided in that definition or below, a conviction for a minor misdemeanor, a conviction for a violation of any section in R.C. Chapter 4507. (driver's license law) and new R.C. 4510. (driver's license suspension provisions), in addition to a conviction for any violation of Chapters 4511., 4513., or 4549. as provided in current law, or for a violation of a municipal ordinance that is substantially similar to any section in those chapters, is not a previous or subsequent conviction. Under the bill, however, only a conviction for a violation of R.C. 4511.19 (state OMVI), a substantially equivalent municipal ordinance, or a felony violation of R.C. Title 45, which pertains mainly to motor vehicles, is considered a previous or subsequent conviction. (R.C. 2953.31(A).)

Application of the expungement laws

Current law provides that the expungement laws do not apply to any of the following: convictions when the offender is subject to a mandatory prison term, convictions for certain sex offenses, convictions for offenses contained in R.C. Chapter 4507. (the driver's license laws), 4511. (motor vehicle traffic code), or 4549. (motor vehicle crimes), a conviction for a violation of a municipal ordinance that is substantially similar to any section contained in any of those chapters, or bail forfeitures in a traffic case as defined in Traffic Rule 2. The bill adds a reference to new R.C. Chapter 4510. (driver's license suspension provisions), thereby making the expungement laws inapplicable to that chapter. (R.C. 2953.36.)

Motor Vehicle Code--General provisions, Chapter 4501.

Additional cross-references to new Chapter 4510.

The bill locates new and existing driver's license suspension provisions in new R.C. Chapter 4510. The bill adds a reference to this new chapter to a number of sections that are located in or are relocated to R.C. Chapter 4501., which contains general motor vehicle provisions. The result is that either these amended sections apply to new R.C. Chapter 4510., or that chapter applies to the amended sections. These amended Chapter 4501. sections are as follows:

R.C. 4501.01. The introductory paragraph of the definition section R.C. 4501.01 provides "As used in this chapter and Chapters 4503., 4505., 4507., 4509., 4511., 4513., 4515., and 4517. of the Revised Code, and in the penal laws, except as otherwise provided" This provision is followed by the various definitions. A reference to new R.C. Chapter 4510. makes these definitions applicable to the that chapter. (R.C. 4501.01.)

R.C. 4501.25. The existing State Bureau of Motor Vehicles Fund consists of all money the Registrar of Motor Vehicles collects, including taxes, fees, and fines levied, charged, or referred to in enumerated Revised Code chapters and sections. A reference to new R.C. Chapter 4510. requires all fees and fines levied or charged by or referred to in that chapter to be paid into the State Bureau of Motor Vehicles Fund. (R.C. 4501.25.)

R.C. 4501.36. Under current law, no court may reverse, suspend, or delay any order made by the Registrar, or enjoin, restrain, or interfere with the Registrar or a deputy registrar in the performance of official duties, except as provided in R.C. sections 4507.01 to 4507.39. The bill modifies the final portion of this sentence to read ". . . except as provided in this chapter and Chapter 4507. or 4510. of the Revised Code." (Current R.C. 4507.28, renumbered R.C. 4501.36.)

R.C. 4501.37. Current law provides that upon the request of the Registrar, the prosecuting attorney of the county in which any proceedings are pending "shall aid in any investigation, prosecution, hearing, or trial had under sections 4507.01 to 4507.39, of the Revised Code" and must institute and prosecute these actions or proceedings for the enforcement of those sections, and for the punishment of all violations of those sections, as the Registrar directs. The bill modifies the middle portion of this sentence to read ". . . shall aid in any investigation, prosecution, hearing, or trial held under this chapter or Chapter 4507., 4510., or 4511. of the Revised Code" The bill thus makes this provision applicable also to any investigation, prosecution, hearing, or trial held under new R.C. Chapter 4510. or existing Chapter 4511., which contains the motor vehicle traffic laws. (Current R.C. 4507.29, renumbered R.C. 4501.37.)

Relocation of certain R.C. sections to Chapter 4501.

The bill relocates a number of current R.C. sections to Chapter 4501. These are as follows:

(1) Records and proceedings of the Registrar of Motor Vehicles (current R.C. 4507.25, renumbered R.C. 4501.33);

(2) Order of the Registrar may be reversed, vacated, or modified by a court of common pleas (current R.C. 4507.26, renumbered R.C. 4501.34);

(3) Proceeding to obtain the reversal, vacation, or modification of an order of the Registrar (current R.C. 4507.27, renumbered R.C. 4501.35);

(4) Restrictions on a court interfering with the Registrar or a deputy registrar in the performance of official duties (current R.C. 4507.28, renumbered R.C. 4501.36);

(5) Requirement that a prosecuting attorney assist the Registrar in certain circumstances (current R.C. 4507.29, renumbered R.C. 4501.37).

Exemptions to the Commercial Driver's License Law

A commercial driver's license (CDL) generally is required to operate a commercial motor vehicle within this state. A "commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications (R.C. 4506.01(E)):

(1) Any combination of vehicles with a combined gross vehicle weight rating of 26,001 pounds or more, provided the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;

(2) Any single vehicle with a gross vehicle weight rating of 26,001 pounds or more, or any such vehicle towing a vehicle having a gross vehicle weight rating that is not in excess of 10,000 pounds;

(3) Any single vehicle or combination of vehicles that is not a Class A or Class B vehicle, but that either is designed to transport 16 or more passengers including the driver, or is placarded for hazardous materials;

(4) Any school bus with a gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than 16 passengers including the driver;

(5) Is transporting hazardous materials for which placarding is required by regulations adopted under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended;

(6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Highway Administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.

There are a number of exemptions to the CDL requirement. A person is not required to have a CDL when engaged in the operation of any of the following (R.C. 4506.02(A)):

(1) A farm truck;

(2) Fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, or joint fire district;

(3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;

(4) A recreational vehicle;

(5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a CDL and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;

(6) A vehicle owned by the Department of Defense and operated by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio National Guard. This exception does not apply to United States Reserve Technicians.

(7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as that term is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the Public Utilities Commission pursuant to Chapter 4919., 4921., or 4923. of the Revised Code.

The bill adds an additional exception to the CDL requirement. The operator of a motor vehicle that is designed primarily for the transportation of goods and not persons and that is used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise is not required to possess a CDL. (R.C. 4506.02(A)(8).)

Driver's license laws--Chapter 4507.

Additional cross-references to new Chapter 4510.

The bill locates new and existing driver's license suspension provisions in new R.C. Chapter 4510. The bill adds a reference to this new chapter to a number of sections that are located in R.C. Chapter 4507., which contains the driver's license laws. The result is that either these amended sections apply to new R.C. Chapter 4510. or that chapter applies to the amended sections. These amended Chapter 4507. sections are as follows:

R.C. 4507.08. Existing law contains a number of restrictions on the issuance of driver's licenses and temporary instruction permits. One provision prohibits a temporary instruction permit or driver's license from being issued to any person whose license has been suspended during the period for which the license was suspended, or to any person whose license has been revoked under R.C. Chapter 4507., until the expiration of one year after the license was revoked. The bill modifies this provision by prohibiting a temporary instruction permit or driver's license from being issued to any person whose license has been suspended during the period for which the license was suspended, or to any person whose license has been canceled under R.C. Chapter 4510. or any other R.C. provision. (R.C. 4507.08(B).)

Another provision prohibits a temporary instruction permit or driver's license from being issued to any person whose commercial driver's license has been suspended under certain specified R.C. sections or under any other R.C.

provision, during the period of the suspension. The bill modifies this provision by prohibiting a temporary instruction permit or driver's license from being issued to any person whose commercial driver's license has been suspended under R.C. Chapter 4510. or under any other R.C. provision, during the period of suspension. (R.C. 4507.08(C).)

R.C. 4507.15. Existing law provides that for the purpose of enforcing R.C. sections 4507.01 to 4507.39, any court of record having criminal jurisdiction has county-wide jurisdiction within the county in which it is located to hear and determine cases arising under those sections. The actions must be commenced by the filing of an affidavit, and the right of trial by jury is preserved; indictments, however, are not required in misdemeanor cases arising under those sections. The Registrar is required to prepare and furnish blanks for the use of the court in making reports of the convictions and bond forfeitures.

The bill modifies this provision by providing that for the purpose of enforcing R.C. Chapters 4507. and 4510., any court of record having criminal jurisdiction has county-wide jurisdiction within the county in which it is located to hear and determine cases arising under those chapters. An action arising under these provisions must be commenced by the filing of an affidavit, and the right of trial by jury is preserved; indictments, however, are not required in misdemeanor cases arising under those chapters. The Registrar is required to prepare and furnish blanks for the use of the court in making reports of the convictions and bond forfeitures arising under those chapters. (R.C. 4507.15.)

Examination by the Registrar of Motor Vehicles of a licenseholder's competency

Current law requires the Registrar of Motor Vehicles, upon determination that a person has more than seven points charged against that person's driver's license and the person is not subject to license reinstatement provisions of R.C. 4507.022, or, 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, must upon written notice of at least five days sent to the person's last known address require the person to submit to a driver's license examination or a physical examination, or both, or a commercial driver's license examination. Upon the conclusion of the examination, the Registrar may suspend or revoke the person's license, permit the person to retain the license, or issue a restricted license. Refusal or neglect of the person to submit to the examination is ground for suspension or revocation of the person's license. (R.C. 4507.20.)

Under the bill, when the Registrar has 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 upon written notice of *at least 30 days* sent to the licensee's last known address require the licensee to submit to a driver's license examination, a physical examination, or both, or a commercial driver's license examination. Upon the conclusion of the examination, the Registrar may suspend the person's license, permit the person to retain the license, or issue a restricted license. Refusal or neglect of the person to submit to the examination is ground for suspension or revocation of the person's license. The bill eliminates the requirement that the Registrar require the above-described persons with seven points charged their licenses to take a driver's license examination, physical examination or both. (R.C. 4507.20.)

Commercial driving training schools

Commercial driver training school licensing requirements

Current law. A commercial driver training school cannot be established unless the school applies for and obtains a license from the Director of Public Safety in the manner and form the Director prescribes. In addition, any school that offers a driver training program for handicapped persons must provide specially trained instructors for the driver training of handicapped persons, and no school may operate a driver training program for handicapped persons unless it has been licensed for that type of operation by the Director. No person may act as a specially trained instructor in a driver training program for handicapped persons unless that person has been licensed by the Director. (R.C. 4508.03(A) and (B).)

The rules governing these schools contain the requirements for a school license, including requirements concerning location, equipment, courses of instruction, instructors, previous records of the school and instructors, financial statements, schedule of fees and charges, character and reputation of the operators, and insurance. Financial responsibility information also is part of the driver education curriculum. (R.C. 4508.03(A).)

Operation of the bill. The bill retains the provisions of current law reviewed in the immediate preceding paragraph and specifically prohibits any person from operating a driver training school unless the person has a valid license issued by the Director (R.C. 4508.03(E)). Whoever violates the licensing requirement is guilty of "operating a driver training school without a valid license," a minor misdemeanor on a first offense. On a second or subsequent offense within two years after the first offense, the offense is a misdemeanor of the fourth degree. (R.C. 4508.03(F).)

License required for instructors

Current law. Under current law, no person may act as a driver training instructor or act as a driver training instructor for handicapped persons unless he applies for and obtains a license from the Director in the manner and form the Director prescribes. The Director must provide by rule for instructors' license requirements including moral character, physical condition, knowledge of the courses of instruction, motor vehicle laws and safety principles, previous personal and employment records, and any other matters the Director prescribes for the protection of the public. Driver training instructors for the handicapped must meet any additional requirements and receive any additional classroom and practical instruction as the Director prescribes by rule. (R.C. 4508.04.)

Operation of the bill. The bill retains the provisions of current law reviewed in the immediate preceding paragraph. Whoever violates the licensing requirement is guilty of "acting as a driver training instructor without a valid license," a misdemeanor of the fourth degree. (R.C. 4508.04(D)(1).)

The bill prohibits a person from knowingly making a false statement on a driver training instructor license application. Whoever violates this prohibition may be charged with the existing crime of falsification. (R.C. 4508.04(C) and (D)(2).)

The bill also prohibits any driver training instructor license from being issued to either of the following: (1) a person who, within ten years of the date of application for the license, has pleaded guilty to or been convicted of a felony under the laws of this state or the comparable laws of another jurisdiction, or (2) a person who, within five years of the date of application for the license, has pleaded guilty to or been convicted of a misdemeanor of the first or second degree that is reasonably related to the person's fitness to be issued such a license (R.C. 4508.04(B)(1) and (2)).

Suspension or revocation of a license

Current law permits the Director of Public Safety to refuse to issue, or to suspend or revoke, a license in any case where he finds the applicant or licensee has violated any provisions of the driver training school law or the regulations adopted for that law by the Director. The licensee must return the suspended or revoked license to the Director. (R.C. 4508.06.)

Under the bill, the Director may refuse to issue, or may suspend or *cancel*, a license in any case in which the Director finds the applicant or licensee has violated any of the provisions of the driver training school law or any of the Director's regulations for that law. The bill prohibits any person whose license has

been suspended or canceled from failing to return the license to the Director. (R.C. 4508.06(A).)

Whoever violates this prohibition is guilty of "failing to return a suspended or canceled license," a minor misdemeanor on a first offense. On a second or subsequent offense within two years after the first offense, this offense is a misdemeanor of the fourth degree. (R.C. 4508.06(B).)

New prohibition relating to vehicles used by a driving school

The bill contains a new provision that prohibits a person who operates a driver training school from using or causing to be used in the operation of the driving school and upon any public property or private property used for vehicular traffic any vehicle that does not meet the minimum standards that are established by the Director of Public Safety and that are applicable to vehicles used in the operation of a driving school. Whoever violates this prohibition is guilty of "using an unsafe vehicle at a driving school," a minor misdemeanor or, on a second or subsequent offense within two years after the first offense, a misdemeanor of the fourth degree. (R.C. 4508.09(A) and (B).)

Technical change

The bill makes two technical changes in R.C. 4508.02 to reflect the enactment of new R.C. 4508.09.

Changes in the penalties for the offense of speeding on a public street or highway

Current speed limits generally

Current law prohibits any person from doing either of the following: (1) operating a motor vehicle, trackless trolley, or streetcar at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface, and width of the street or highway and any other conditions, and (2) driving any motor vehicle, trackless trolley, or streetcar in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead (R.C. 4511.21(A)).

It is prima-facie lawful, in the absence of a lower limit declared by the Director of Transportation or a local authority, for the operator of a motor vehicle, trackless trolley, or streetcar to operate the vehicle at a speed not exceeding most of the speeds specified in the speed limit statute, and prima-facie unlawful to exceed any of these specified speed limits. These are known as prima-facie speed limits. (R.C. 4511.21(B) and (C).)

In contrast to the prima-facie speed limits, current law specifically prohibits any person from operating a motor vehicle, trackless trolley, or streetcar upon a street or highway, as follows (R.C. 4511.21(D)):

(1) At a speed exceeding 55 miles per hour, except upon a freeway as provided in current law;

(2) At a speed exceeding 65 miles per hour upon a freeway as provided in current law, except as otherwise provided for motor vehicles weighing in excess of 8,000 pounds empty weight or a noncommercial bus;

(3) If a motor vehicle weighing in excess of 8,000 pounds empty weight or a noncommercial bus, at a speed exceeding 55 miles per hour upon a freeway;

(4) At a speed exceeding the posted speed limit upon a freeway for which the Director has determined and declared a speed limit of not more than 65 miles per hour pursuant to a provision of existing law that permits the Director to do so;

(5) At a speed exceeding 65 miles per hour upon a freeway for which such a speed limit has been established through the operation of a provision of existing law that permits the establishment of such a speed limit;

(6) At a speed exceeding the posted speed limit upon a freeway for which the Director has determined and declared a speed limit pursuant to a provision of existing law that permits the Director to do so.

These six prohibitions will be referred to in the remaining portion of this analysis relating to speed limits as "absolute speed limit prohibitions."

Current speed limit penalties

The penalties for most state speeding violations are located in a "catch-all" penalty provision, which applies to a large number of traffic operation offenses. A first offense is punishable as a minor misdemeanor. If, within one year, the offender has been convicted of or pleaded guilty to one violation of any of the grouped offenses, or of any substantially similar municipal ordinance, the offense is a misdemeanor of the fourth degree. Similarly, a third or subsequent violation of any of the grouped offenses, or of any substantially similar municipal ordinance, within one year, is a misdemeanor of the third degree. (R.C. 4511.99(D)(1).)

The catch-all provision does not apply to two particular speeding offenses. If a person is found guilty of a first offense that is a state speeding violation and the court finds that the person operated a motor vehicle faster than 35 miles an

hour in a business district of a municipal corporation, faster than 50 miles an hour in other portions, or faster than 35 miles an hour while passing through a school zone during recess or while children are going to or leaving school during the opening or closing hours, the person is guilty of a misdemeanor of the fourth degree. (Current R.C. 4511.99(D)(2), relocated to R.C. 4511.21(O)(2).) Upon a finding that a person operated a motor vehicle in a construction zone where warning signs were properly posted, the court, in addition to all other penalties provided by law, must impose a fine of two times the usual amount imposed for the violation. A court cannot impose such a fine upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay the fine and the court determines the offender is an indigent person and is unable to pay the fine. (R.C. 4511.99(D)(3), relocated to R.C. 4511.21(O)(3).) The bill does not affect either of these two penalty provisions in any substantive manner.

Points assessment for speeding under current law

When a person pleads guilty to or is convicted of a state or local traffic law violation involving a moving motor vehicle, such as speeding, the Registrar of Motor Vehicles assesses a number of points against his driver's license. The assessments range from two points for less serious violations to six points for more serious violations. If a person accumulates 12 points within a two-year period, his driver's license is suspended for six months. (Current R.C. 4507.021.)

The current points schedule for speeding is based partly on the speed at which the offender was operating the motor vehicle at the time of the offense and partly on number of speeding offenses the offender has committed within one year of the current offense (R.C. 4507.021(G)(12) to (15)). In addition, points are assessed for a violation of one of the absolute speed limit prohibitions only when the court finds the violation involved a speed of five miles per hour or more in excess of the posted speed limit (R.C. 4511.21(G)).

Points are assessed for speeding offenses according to the following schedule:

(1) Except as otherwise provided, for a violation of any law or ordinance pertaining to speed two points (R.C. 4507.021(G)(12)).

(2) For a first violation of a speed limit in violation of one of the absolute speed limit prohibitions at a speed in excess of 75 miles per hour..... two points R.C. 4507.021(G)(13)).

(3) For a second violation within one year of the first violation of a speed limit in violation of one of the absolute speed limit prohibitions, 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..... one point (R.C. 4507.021(G)(14)).

(4) For a third or subsequent violation within one year of the first violation of a speed limit in violation of one of the absolute speed limit prohibitions, 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..... two points (R.C. 4507.021(G)(15)).

The bill's changes in the misdemeanor classification for some speeding offenses

The bill does not change any of the existing speed limits or any of the absolute speed limit prohibitions reviewed in the immediate preceding portion of this analysis. The bill relocates the speeding penalty provisions to the end of R.C. 4511.21 and changes the misdemeanor classification for some speeding offenses. (R.C. 4511.21(O)(2) and (3).)

The bill specifies that except as otherwise provided in the bill, a state speeding offense is a minor misdemeanor. If, within one year of the offense, the offender has been convicted of or pleaded guilty to two state speeding violations, the offense is a misdemeanor of the fourth degree. If, within one year of the offense, the offender has been convicted of or pleaded guilty to three or more state speeding violations, the offense is a misdemeanor of the third degree. (R.C. 4511.21(O)(1).)

Under the bill for speeding points assessment

The bill simplifies the points assessment schedule for state and local speeding offenses in the following manner (R.C. 4510.036(C)(9)):

(1) Notwithstanding following items (2) and (3), when the speed exceeds the lawful speed limit by 30 miles per hour or more four points;

(2) When the speed exceeds the lawful speed limit of 55 miles per hour or more by more than ten miles per hour four points;

(3) When the speed exceeds the lawful speed limit of less than 55 miles per hour by more than five miles per hour two points;

(4) When the speed does not exceed the amounts in items (1), (2), or (3), above zero points.

Driver's license suspension for speeding under the bill

The bill provides that in addition to all other penalties provided by law, if, within one year of a violation of any provision of the speeding laws the offender previously has been convicted of or pleaded guilty to two or more violations of any provision of the speeding laws or of a substantially equivalent municipal ordinance, the court may impose a Class Six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege (R.C. 4511.21(O)(4)). The specified range for a Class Six suspension is a definite period not exceeding one year (R.C. 4510.02(A)(6)).

Relocation of the penalties for the offense of speeding on a private road or driveway for which a speed limit has been established

Current law

Under current law, the owner of a private road or driveway located in a private residential area containing 20 or more dwelling units may establish a speed limit on the road or driveway by complying with all of the following requirements (R.C. 4511.211(A)):

(1) The speed limit is not less than 25 miles per hour and is indicated by a sign that is in a proper position, is sufficiently legible to be seen by an ordinarily observant person, and meets the specifications for the basic speed limit sign included in ODOT's manual and specifications for a uniform system of traffic control devices;

(2) The owner has posted a sign at the entrance of the private road or driveway that is in plain view and clearly informs persons entering the road or driveway that they are entering private property, a speed limit has been established for the road or driveway, and the speed limit is enforceable by law enforcement officers under state law.

No person may operate a vehicle upon a private road or driveway for which a speed limit has been properly established and posted at a speed exceeding that speed limit. When a speed limit for a private road or driveway is established and the required signs have been posted, any law enforcement officer may apprehend a person violating the speed limit of the residential area by utilizing any of the means described in existing law or by any other accepted method of determining the speed of a motor vehicle and may stop and charge the person with exceeding the speed limit. Points are assessed for a violation of such a properly established and posted speed limit in accordance with the current schedule but only when the violation involves a speed of five miles per hour or more in excess of the posted speed limit. (R.C. 4511.211(B), (C), and (D).)

The penalties for committing a speeding violation on such a private road or driveway are located in the "catch-all" penalty provision of existing law (R.C. 4511.99(D)(1)).

Operation of the bill

The bill specifies that except as otherwise provided in the bill, the offense of speeding on a private road or driveway for which a speed limit has been properly established and posted is a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two such speeding violations, the offense is a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more such speeding violations, the offense is a misdemeanor of the third degree. (R.C. 4511.211(F)(1).)

Points for such speeding violations are assessed according to the new schedule contained in the bill and reviewed previously in this analysis.

In addition to all other penalties provided by law, if, within one year of a violation of a speed limit on a private road or driveway that has been properly established and posted, the offender previously has been convicted of or pleaded guilty to three or more such violations, the court may impose a Class Six (definite period not to exceed one year) suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege (R.C. 4511.211(F)(2)).

New suspensions for failing to stop after an accident

R.C. 4549.02

The actions a motor vehicle operator must take in the event of an accident are governed by R.C. 4549.02 and 4549.021. Under R.C. 4549.02, in case of an accident to or collision with persons or property upon any of the public roads or highways due to the driving or operation of any motor vehicle, the operator of the motor vehicle, having knowledge of the accident or collision, immediately must stop the motor vehicle at the scene of the accident or collision. The operator must remain at the scene of the accident or collision until he has given his name and address and, if he is not the owner, the name and address of the motor vehicle owner, together with the registered number of the motor vehicle. He must give this information to any person injured in the accident or collision, the operator, occupant, owner, or attendant of any motor vehicle damaged in the accident or collision, and to any police officer at the scene.

If an injured person is unable to comprehend and record the information, the other driver involved in the accident or collision immediately must notify the

nearest police authority concerning the location of the accident or collision, and his name, address, and the registered number of the motor vehicle he was operating. The person must remain at the scene of the accident or collision until a police officer arrives, unless removed from the scene by an emergency vehicle operated by a political subdivision or an ambulance. If the accident or collision is with an unoccupied or unattended motor vehicle, the operator colliding with the motor vehicle must attach securely the required information, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle. (R.C. 4549.02.)

The bill relocates the current penalties for failing to stop after an accident and specifies that a person who violates the above requirements is guilty of the offense of "failure to stop after an accident." Generally, failure to stop after an accident is a misdemeanor of the first degree, but, if the violation results in serious physical harm or death to a person, it is a felony of the fifth degree. The bill requires the court, in addition to any other penalties provided by law, to impose upon the offender a Class Four (definite period of six months to three years) suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege. (R.C. 4549.02(B) and 4510.02(A)(4).)

R.C. 4549.021

Under R.C. 4549.021, in case of an accident or collision resulting in injury or damage to persons or property upon any public or private property other than public roads or highways, due to the driving or operation of any motor vehicle, the operator of the motor vehicle, having knowledge of the accident or collision, must stop the motor vehicle. Upon request of the person injured or damaged or any other person, the motor vehicle operator must give the person his name and address and, if he is not the owner, the name and address of the owner of the motor vehicle, together with the registered number of the motor vehicle. The operator also must exhibit his driver's or commercial driver's license if it is available.

If the operator of the motor vehicle involved in the accident or collision does not furnish the owner or person in charge of the damaged property with the required information, the operator, within 24 hours after the accident or collision, must forward to the police department of the city or village in which the accident or collision occurred, or to the sheriff of the county in which the accident or collision occurred if it occurred outside the corporate limits of a city or village, the same information that must be given to the owner or person in control of the damaged property, including the date, time, and location of the accident or collision.

If the accident or collision is with an unoccupied or unattended motor vehicle, the operator colliding with the motor vehicle must attach securely the required information, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle. (R.C. 4549.021.)

The bill relocates the current penalties for failing to stop after a nonpublic road accident and specifies that a violation of the above requirements is the offense of "failure to stop after a nonpublic road accident." Generally, that offense is a misdemeanor of the first degree, but, if the violation results in serious physical harm or death to a person, it is a felony of the fifth degree. The bill requires the court, in addition to any other penalties provided by law, to impose upon the offender a Class Four (definite period of six months to three years) suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege. (R.C. 4549.021(B).)

New R.C. 4549.52

The bill enacts new R.C. 4549.52, which relocates a provision in current R.C. 4549.99(C) and makes nonsubstantive changes in this provision. This current provision permits the prosecuting attorney of the proper county or the Attorney General by information or complaint to bring a criminal action in the courts of common pleas of this state, or in any other court of competent jurisdiction, to enforce R.C. 4549.41 to 4549.51. The Attorney General and the prosecuting attorney of the county in which a person who has been licensed or granted a permit under R.C. Chapter 4517. (which governs the licensing of motor vehicle dealers and salespersons) is convicted of or pleads guilty to a violation of R.C. 4549.41 to 4549.46 are required to report the conviction or guilty plea to the Registrar of Motor Vehicles within five business days.

The bill permits the prosecuting attorney of the county in which a violation of any provision of R.C. 4549.41 to 4549.51 occurs, or the Attorney General, to bring a criminal action to enforce the provisions of those sections. The Attorney General and the prosecuting attorney of the county in which a person who has been licensed or granted a permit under Chapter 4517. of the Revised Code is convicted of or pleads guilty to a violation of any provision of R.C. 4549.41 to 4549.46 is required to report the conviction or guilty plea to the Registrar within five business days of the conviction or plea. (New R.C. 4549.52.)

Street racing

Current law prohibits any person from participating in street racing upon any public road, street, or highway in this state (R.C. 4511.251(B)). "Street racing" is defined to mean the following:

the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds. (R.C. 4511.251(A).)

Whoever commits street racing is guilty of a misdemeanor of the first degree (R.C. 4511.99(B)). The trial judge, in addition to or independent of all other penalties provided by law or ordinance, must suspend for not less than 30 days but not more than three years or must 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 street racing (R.C. 4507.16(A)(1)).

The bill retains the current penalty provision but relocates it to the end of the street racing section and provides that, in addition to any other sanctions, the court may impose a Class Six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in the bill for that class of suspension, which is a definite period not exceeding one year. (R.C. 4511.251(C)).

Illegally passing a stopped school bus

Current law requires the driver of a vehicle, streetcar, or trackless trolley upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or child attending a program offered by a Head Start agency, to stop at least ten feet from the front or rear of the school bus. The driver cannot proceed until the school bus resumes motion or the school bus driver signals for traffic to proceed. (R.C. 4511.75(A).)

Whoever violates this prohibition is guilty of illegally passing a stopped school bus and may be fined an amount not to exceed \$500. A person who is issued a citation for such a violation cannot enter a written plea of guilty and waive his right to contest the citation in a trial, but instead must appear in person in the proper court to answer the charge. (R.C. 4511.99(G).) The trial judge or mayor of a mayor's court, in addition to all other penalties provided by law, may suspend for not more than one year the license of any person who is convicted of or pleads guilty to illegally passing a stopped school bus. When a driver's or

commercial driver's license has been so suspended, the court or mayor must cause the person to deliver the license to the court, and the court or clerk of the court must forward the license to the Registrar of Motor Vehicles, together with notice of the action of the court. (R.C. 4507.165.)

The bill retains the current penalty provision but relocates it to the end of the stopped school bus section (R.C. 4511.75(F)(1)). The bill also provides that in addition and independent of any other penalty provided by law, the court or mayor may impose upon an offender a Class Six suspension of his driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in the bill for that class of suspension, which is a definite period not exceeding one year. The court or mayor still is required to cause the person to deliver the license to the court, and the court or clerk of the court must forward the license to the Registrar of Motor Vehicles, together with notice of the action of the court. (R.C. 4511.75(F)(2).)

Suspension of professional licenses for drug offenses: Admission to the bar

In addition to any prison term and any other sanction, a court that sentences an offender who is convicted of or pleads guilty to various specific drug offenses is required to suspend a person's "professional license." Current law defines "professionally licensed person" as a person who holds one of 35 specified licenses or certificates issued by the state allowing the person to practice the profession.¹ Current law does not classify a person who has been admitted to the bar by order of the Supreme Court (attorneys) with other professionally licensed persons although it requires the suspension of a person's license to practice law for all offenses where a professional license must be suspended.

The bill adds a person who has been admitted to the bar by order of the Supreme Court in compliance with its prescribed and published rules to the list of

¹ Under current law, a professionally licensed person includes the following: a person who has obtained a license as a manufacturer or wholesaler of controlled substances; a certified public accountant; an architect; a landscape architect; an auctioneer; a barber; a person licensed to engage in the business of a debt pooling company; various cosmetology professionals; a dentist; an embalmer or funeral director; a nurse; an optometrist; a pawnbroker; a precious metals dealer; a pharmacist; a physician assistant; a doctor; a psychologist; a registered engineer; a chiropractor; a real estate broker; a registered sanitarian; a junkyard operator; a motor vehicle salvage dealer; a steam engineer; a veterinarian; a hearing aid dealer; an investigator; a nursing home administrator; a speech-language pathologist; an occupational or physical therapist; a licensed counselor or social worker; a dietitian; a respiratory therapist; and a real estate appraiser.

35 other licensed professionals defined as a "professionally licensed person" (R.C. 2925.01(W)). Including a person who has been admitted to the bar by the Supreme Court in the list of professionally licensed persons allows the elimination of a separate reference to such persons (attorneys) in all of the following: R.C. 2923.01, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.26, 2925.31, 2925.32, 2925.36, and 2925.37. Under current law and the bill, the court is required to transmit a certified copy of the judgment entry of conviction for the specified drug offenses to the regulatory or licensing board or agency with authority to suspend or revoke the offender's professional license; in the case of a person admitted to the bar, the judgment entry is transmitted to the secretary of the Board of Commissioners on Grievances and Discipline of the Supreme Court and to either the Disciplinary Counsel or to officers of each certified grievance committee (R.C. 2925.38).

Relocation of penalty clauses

Existing law

Under existing law, the provisions of R.C. Title XLV that contain prohibitions generally do not set forth the penalties for a violation of the prohibitions. Rather, the penalties generally are set forth in the last section of the R.C. Chapter that includes the prohibition, which is designated and referred to as the ".99" section.

For example, the penalties for a violation of any prohibition contained in the Motor Vehicle Licensing Law (R.C. Chapter 4503.) are set forth in R.C. 4503.99, those for a violation of any prohibition contained in the Certificate of Motor Vehicle Title Law (R.C. Chapter 4505.) are set forth in R.C. 4505.99, those for a violation of any prohibition contained in the Commercial Driver's Licensing Law (R.C. Chapter 4506.) are set forth in R.C. 4506.99, those for a violation of any prohibition contained in the Driver's License Law (R.C. Chapter 4507.) are set forth in R.C. 4507.99, those for a violation of any prohibition contained in the Driver Training School Law (R.C. Chapter 4508.) are set forth in R.C. 4508.99, those for a violation of any prohibition contained in the Financial Responsibility Law (R.C. Chapter 4509.) are set forth in R.C. 4509.99, those for a violation of any prohibition contained in the Operation of a Motor Vehicle Law (R.C. Chapter 4511.) are set forth in R.C. 4511.99, those for a violation of any prohibition contained in the Vehicle Equipment and Load Law (R.C. Chapter 4513.) are set forth in R.C. 4513.99, those for a violation of any prohibition contained in the Motor Vehicle Dealer, Auction Owner, and Salesperson Law (R.C. Chapter 4517.) are set forth in R.C. 4517.99, those for a violation of any prohibition contained in the Special Vehicle Law (R.C. Chapter 4519.) are set forth in R.C. 4519.99, those for a violation of any prohibition contained in the Motor Vehicle Crimes Law

(R.C. Chapter 4549.) are set forth in R.C. 4549.99, those for a violation of any prohibition contained in the Transportation of Christmas Trees Law (R.C. Chapter 4551.) are set forth in R.C. 4551.99, those for a violation of any prohibition contained in the Aeronautics Law (R.C. Chapter 4561.) are set forth in R.C. 4561.99, those for a violation of any prohibition contained in the Airport Law (R.C. Chapter 4563.) are set forth in R.C. 4563.99, those for a violation of any prohibition contained in the Port Authority Law (R.C. Chapter 4582.) are set forth in R.C. 4582.99, and those for a violation of any prohibition contained in the Ferry Law (R.C. Chapter 4583.) are set forth in R.C. 4583.99.

Operation of the bill

The bill generally relocates the penalty provisions for all violations of any prohibition contained in R.C. Title XLV from the ".99" section to the section that actually sets forth the prohibition in question, and accordingly, generally repeals the ".99" sections. For a few chapters contained in R.C. Title XLV, though, the bill retains a "catch-all" penalty provision in the ".99" section--this ensures that, for certain provisions contained in those chapters that do not clearly contain prohibitions but that might be construed as containing prohibitions, the existing penalties are retained. Some of the relocated penalty provisions are modified, in addition to being relocated--those provisions are discussed in Parts I and II of this analysis and in prior portions of this Part of this analysis. But in all other cases, the bill does not change the relocated penalty provisions. The relocated penalty provisions that are not modified by the bill are as follows:

(1) The penalties for a violation of any Motor Vehicle Licensing Law prohibition are relocated to R.C. 4503.033, 4503.05, 4503.061, 4503.066, 4503.11, 4503.182, 4503.19, 4503.21, 4503.236, 4503.28, 4503.30, 4503.301, 4503.32, 4503.34, 4503.44, 4503.46, and 4503.47, and section 4503.99 is repealed (Sec. 2). Note that the bill inadvertently eliminates the penalty for a violation of R.C. 4503.12; currently, a violation of that section is classified by R.C. 4503.99(A) as a misdemeanor of the fourth degree.

(2) The penalties for a violation of any Certificate of Motor Vehicle Title Law prohibition are relocated to R.C. 4505.101, 4505.102, 4505.11, 4505.111, 4505.15, 4505.17, 4505.18, 4505.19, 4505.20, and 4505.21, except that a "catch-all" penalty provision is retained in R.C. 4505.99.

(3) The penalties for a violation of any Commercial Driver's Licensing Law prohibition are relocated to R.C. 4506.03, 4506.04, 4506.05, 4506.06, 4506.10, 4506.11, 4506.12, 4506.14, 4506.15, 4506.17, 4506.18, 4506.19, 4506.20, and 4506.24, except that a "catch-all" penalty provision is retained in R.C. 4506.99.

(4) The penalties for a violation of any Driver's License Law prohibition are relocated to R.C. 4507.05, 4507.071, 4507.13, 4507.21, 4507.30, 4507.31, 4507.321, 4507.35, 4507.36, and 4507.52, except that a "catch-all" penalty provision is retained in R.C. 4507.99.

(5) The penalties for a violation of any Commercial Driver Training School prohibition are relocated to R.C. 4508.03, 4508.04, and 4508.61, and 4508.99 is repealed (Sec. 2).

(6) The penalties for a violation of any Financial Responsibility Law prohibition are relocated to R.C. 4509.74, 4509.77, 4509.78, 4509.79, and 4509.80, and R.C. 4509.99 is repealed (Sec. 2).

(7) The penalties for a violation of any Operation of a Motor Vehicle Law prohibition are relocated to R.C. 4511.03, 4511.051, 4511.11, 4511.12, 4511.132, 4511.16, 4511.17, 4511.18, 4511.20, 4511.201, 4511.202, 4511.22, 4511.23, 4511.25, 4511.251, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.45, 4511.451, 4511.452, 4511.46, 4511.47, 4511.48, 4511.481, 4511.49, 4511.50, 4511.51, 4511.511, 4511.521, 4511.53, 4511.54, 4511.55, 4511.56, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.62, 4511.63, 4511.64, 4511.66, 4511.661, 4511.68, 4511.681, 4511.69, 4511.70, 4511.701, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, 4511.73, 4511.74, 4511.75, 4511.76, 4511.761, 4511.762, 4511.763, 4511.764, 4511.77, 4511.771, 4511.772, 4511.78, 4511.79, 4511.81, 4511.82, 4511.84, and 4511.85, except that a "catch-all" penalty provision is retained in R.C. 4511.99; also see R.C. 4511.01(HHH); note that R.C. 4511.761(C), 4511.762(D), and 4511.77(C) contain a provision relocated, without change, from existing R.C. 4511.99(E)).

(8) The penalties for a violation of any Vehicle Equipment and Load Law prohibition are relocated to R.C. 4513.02, 4513.021, 4513.03, 4513.04, 4513.05, 4513.06, 4513.07, 4513.071, 4513.09, 4513.10, 4513.11, 4513.12, 4513.13, 4513.14, 4513.15, 4513.16, 4513.17, 4513.171, 4513.18, 4513.182, 4513.19, 4513.20, 4513.201, 4513.202, 4513.21, 4513.22, 4513.23, 4513.24, 4513.241, 4513.242, 4513.25, 4513.26, 4513.261, 4513.262, 4513.263, 4513.27, 4513.28, 4513.29, 4513.30, 4513.31, 4513.32, 4513.34, 4513.36, 4513.361, 4513.60, 4513.64, 4513.65, and 4513.99.

(9) The penalties for a violation of any Motor Vehicle Dealer, Auction Owner, and Salesperson Law prohibition are relocated to R.C. 4517.02, 4517.03, 4517.19, 4517.20, 4517.21, 4517.22, 4517.23, 4517.24, 4517.25, 4517.26,

4517.27, 4517.40, 4517.41, 4517.42, 4517.43, 4517.44, 4517.45, and 4517.64, except that a "catch-all" penalty provision is retained in R.C. 4517.99.

(10) The penalties for a violation of any Special Vehicle Law prohibition are relocated to R.C. 4519.02, 4519.05, 4519.06, 4519.20, 4519.22, 4519.40, 4519.44, 4519.45, 4519.52, 4519.66, and 4519.67, and R.C. 4519.99 is repealed (Sec. 2).

(11) The penalty for a violation of any Motor Vehicle Crimes Law prohibition is relocated to R.C. 4549.01, 4549.02, 4549.021, 4549.03, 4549.042, 4549.08, 4549.10, 4549.11, 4549.12, 4549.18, 4549.42, 4549.43, 4549.44, 4549.45, 4549.451, 4549.46, and 4549.62, and R.C. 4549.99 is repealed (Sec. 2); also, certain provisions of R.C. 4549.99(C) pertaining to prosecutions of violations are relocated, without change, to R.C. 4549.52.

(12) The penalty for a violation of any Transportation of Christmas Trees Law prohibition is relocated to R.C. 4551.04, and R.C. 4551.99 is repealed (Sec. 2).

(13) The penalties for a violation of any Aeronautics Law prohibition are relocated to R.C. 4561.11, 4561.12, 4561.14, 4561.15, 4561.22, 4561.24, and 4561.31, except that a "catch-all" penalty provision is retained in R.C. 4561.99.

(14) The penalty for a violation of any Airport Law prohibition is relocated to R.C. 4563.20, and R.C. 4563.99 is repealed (Sec. 2).

(15) The penalties for a violation of any Port Authority Law prohibition are relocated to R.C. 4582.06 and 4582.31, and R.C. 4582.99 is repealed (Sec. 2).

(16) The penalty for a violation of any Ferry Law prohibition is relocated to R.C. 4583.01, and R.C. 4583.99 is repealed (Sec. 2).

Miscellaneous changes

Upon request of the Registrar of Motor Vehicles, current law requires the prosecuting attorney of the county in which any proceedings are pending to aid in any investigation, prosecution, hearing, or trial held under specified sections of the Driver's Licensing Law (Chapter 4507.) and to institute and prosecute any actions or proceedings for the enforcement of those sections. The bill expands this requirement to apply to the entire chapter governing driver's licensing, the chapter governing license suspensions, and the chapter establishing traffic laws. (R.C. 4501.37.)

Cross-references

The following sections are included in the bill solely to conform statutory references within the sections to changes made by the bill to other Revised Code sections; the sections may have other technical changes, but no substantive changes are made to the following Revised Code sections: 9.981, 733.40, 1901.024, 1901.31, 1905.01, 1907.20, 2151.312, 2151.34, 2323.59, 2743.191, 2901.01, 2903.09, 2930.01, 2935.03, 2935.36, 2937.99, 2953.36, 3793.02, 3793.10, 4501.19, 4501.25, 4503.10, 4503.102, 4503.12, 4505.181, 4506.16, 4507.12, 4507.15, and 4508.02.

HISTORY

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