



**Sub. H.B. 322\***

124th General Assembly

(As Reported by S. Judiciary on Civil Justice)

**Reps. Wolpert, Wilson, Seitz, Evans, Allen, Collier, Webster, Goodman, Fessler, Hughes, Rhine, G. Smith, Reidelbach, Lendrum, Carano, Perry, Flowers, Willamowski, Grendell, Jones, Sulzer, Manning, Beatty, Buehrer, McGregor, Kearns, Carmichael, Latta, Niehaus, Ogg, Jolivette, Schmidt, Hagan, Otterman, Core, Schneider, Roman, Distel, Fedor, S. Smith, Latell, Patton, Reinhard, Coates, Barrett, Cirelli, Damschroder, Key, Salerno, Woodard**

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**BILL SUMMARY**

- Generally grants an owner, operator, or employee of a funeral home and an owner or operator of a funeral escort vehicle immunity from liability in damages in a civil action for injury, death, or loss to person or property that allegedly arises from the movement of a funeral procession if any of certain conditions apply.
- Provides that the grant of immunity does not apply if the injury, death, or loss allegedly arose from the willful, wanton, or intentional acts or omissions of, or the negligent or reckless acts or omissions in the operation of a motor vehicle by, the owner, operator, or employee of a funeral home or the owner or operator of a funeral escort vehicle.
- Redefines "funeral procession" to mean two or more vehicles accompanying the cremated remains or the body of a deceased person in the daytime when each vehicle has its headlights lighted and is displaying a purple and white or an orange and white pennant attached to each vehicle in the funeral procession in such a manner as to be clearly visible to traffic approaching from any direction.

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*\* This analysis was prepared before the report of the Senate Judiciary on Civil Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

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## CONTENT AND OPERATION

### *Funeral procession*

Under existing law, excepting public safety vehicles proceeding in accordance with the right of way of public safety vehicles or when directed otherwise by a police officer, pedestrians and the operators of all vehicles, street cars, and trackless trolleys must yield the right of way to each vehicle that is a part of a "funeral procession" (see "*Definitions*," below). Whenever the lead vehicle in a funeral procession lawfully enters an intersection, the remainder of the vehicles in the procession may continue to follow the lead vehicle through the intersection notwithstanding any traffic control devices or right of way provisions of the Revised Code, provided that the operator of each vehicle exercises *due care* to avoid colliding with any other vehicle or pedestrian "upon the roadway." Existing law prohibits any person from operating any vehicle as a part of a funeral procession without having the headlights of the vehicle lighted and without displaying a *purple and white pennant* in such a manner as to be clearly visible to traffic approaching from any direction. (R.C. 4511.451.)

The bill prohibits any person from operating any vehicle as a part of a funeral procession without having the headlights of the vehicle lighted and without displaying a purple and white *or an orange and white pennant* (added by the bill) in such a manner as to be clearly visible to traffic approaching from any direction. It removes the phrase "upon the roadway" from the above existing provision regarding the operator of each vehicle in a funeral procession exercising due care to avoid colliding with any other vehicle or pedestrian. (R.C. 4511.451.)

### *Civil immunity regarding movement of funeral procession*

The bill provides that neither the owner, the operator, or an employee of a "funeral home" (see "*Definitions*," below) nor the owner or operator of a funeral escort vehicle is liable in damages in a civil action for injury, death, or loss to person or property that allegedly arises from the movement of a funeral procession if either of the following applies (R.C. 4511.453(A)):

(1) The movement of the funeral procession is in accordance with existing law and the bill as described above in "*Funeral procession*."

(2) The movement of the funeral procession generally is in accordance with existing law and the bill as described above, but the operator of one or more motor vehicles that are in the procession, that are not owned or operated by the owner, the operator, or an employee of the funeral home, and that are not funeral escort vehicles fails to do either of the following and the injury, death, or loss to person or property allegedly arose from that failure: (a) exercise due care as

required above in existing law and the bill, or (b) comply with the above requirement regarding having headlights lighted and displaying a purple and white or an orange and white pennant, provided that the owner, the operator, or an employee of the funeral home informed the motor vehicle operator of the requirements and made the appropriate pennant available to the motor vehicle operator.

This civil immunity does not apply if the injury, death, or loss allegedly arose from any of the following:

(1) The willful, wanton, or intentional acts or omissions of the owner, the operator, or an employee of a funeral home or the owner or the operator of a funeral escort vehicle;

(2) The negligent or reckless acts or omissions in the operation of a motor vehicle by the owner, the operator, or an employee of a funeral home or the owner or the operator of a funeral escort vehicle.

The grant of immunity (a) does not create a new cause of action or substantive legal right against an owner, operator, or employee of a funeral home or an owner or operator of a funeral escort vehicle and (b) does not affect any immunities from civil liability or defenses established by another section of the Revised Code or any immunities from civil liability or defenses available at common law to which an owner, operator, or employee of a funeral home or an owner or operator of a funeral escort vehicle may be entitled. (R.C. 4511.453(B).)

### **Definitions**

Existing law defines "funeral procession" as two or more vehicles accompanying *a body* of a deceased person in the daytime when each of the vehicles has its headlights lighted and is displaying a *purple and white pennant* attached to each vehicle in such a manner as to be clearly visible to traffic approaching from any direction. The bill modifies this definition of "funeral procession" to include a vehicle accompanying the *cremated remains* of a deceased person when the vehicle has its headlights lighted and displays a purple and white or orange and white pennant and also a vehicle accompanying a body of a deceased person when it has its headlights lighted and displays an *orange and white pennant*. The bill also applies this definition to its provisions regarding the grant of immunity from liability. (R.C. 4511.451(A) and 4511.453(C)(2).)

The bill defines "funeral home" as a fixed place for the care, preparation for burial, or disposition of dead human bodies or the conducting of funerals. Each business location is a funeral home, regardless of common ownership or management. (R.C. 4511.453(C)(1) and R.C. 4717.01(D)--not in the bill.)

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	06-27-01	p. 718
Reported, H. Civil and Commercial Law	01-23-02	p. 1293
Passed House (96-0)	01-30-02	pp. 1342-1343
Reported, S. Judiciary on Civil Justice	---	---

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