



**Sub. H.B. 163\***

125th General Assembly  
(As Reported by H. Criminal Justice)

**Reps. Oelslager, Olman, Hagan, Raussen, Williams, Barrett, D. Evans,  
C. Evans, Fessler, Latta, McGregor, Perry, Hollister**

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**BILL SUMMARY**

- Provides that state OMVI is a felony of the fourth degree if the offender previously has been convicted of five or more offenses of state OMVI, a comparable municipal ordinance violation, state OMVUAC, or any of a list of specified vehicle-related and alcohol-related offenses (hereafter, collectively referred to as "predicate offenses"), within 20 years of the offense.
- Provides an additional mandatory prison term of one, two, three, four, or five years for state OMVI when it is a felony of the third degree or a felony of the fourth degree, if the offender also pleads guilty to or is convicted of a "State OMVI Five Prior Conviction Specification" charging prior convictions, within 20 years of committing the offense, of five or more predicate offenses as enacted in the bill.
- Provides an additional mandatory term of imprisonment of up to six months for state OMVUAC when the offender also pleads guilty to or is convicted of a "State OMVUAC Five Prior Conviction Specification" charging prior convictions, within 20 years of committing the offense, of five or more predicate offenses as enacted in the bill, and the court imposes a term of imprisonment for the underlying state OMVUAC offense.
- Lowers from 60,000 to 50,000 the threshold population that gives township police officers and township constables authority to make

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

arrests for specified types of violations on highways included as part of the interstate highway system.

- Notwithstanding the Revised Code's other records retention provisions, requires the clerk of each municipal court, county court, and court of common pleas to retain documentation regarding each criminal conviction and plea of guilty involving a case that is or was before the court; requires the documentation to be in a form that is admissible as evidence in a criminal proceeding as evidence of a prior conviction; requires the clerk to retain this documentation for a period of 50 years after the entry of judgment in the case; and specifies that these provisions apply to records currently retained and to records created on or after the bill's effective date.
- Increases from a felony of the fourth degree to a felony of the third degree the penalty for vehicular assault if, in the same course of conduct that resulted in the vehicular assault, the offender also committed a failure to stop offense.

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## CONTENT AND OPERATION

### OMVI Law--introduction

The provisions that are discussed in this analysis as "existing law" are the provisions of the Revised Code that currently are in effect. They are set forth in Section 1 of the bill. The discussions in this analysis of the "operation of the bill" relate to the changes the bill makes in those provisions of existing law, and those changes also appear in Section 1 of the bill.

On January 1, 2004, pursuant to the enactment of Am. Sub. S.B. 123 of the 124th General Assembly, some of the provisions that are discussed in this analysis as "existing law" will be relocated to different Revised Code sections or will be amended in ways that are not discussed in this analysis. In general legislative terminology, these provisions are "future versions" of the Revised Code sections in question. These "future versions" of the Revised Code sections are set forth in Section 3 of the bill, and the bill makes changes in the future versions that are comparable to the changes that it makes in the existing versions of the sections and that are discussed in this analysis. This analysis does not specifically address the changes the bill makes in the future versions, but the changes have the effect of continuing the changes that the bill makes in the existing versions of the sections and that are discussed in this analysis.

### State OMVI penalties

#### Background

Existing law prohibits a person from operating a vehicle, streetcar, or trackless trolley in Ohio if the person is under the influence of alcohol, a drug of abuse, or a combination of them or if the person has: (1) a concentration of .08 of one per cent or more but less than .17 of one per cent by weight per unit volume of alcohol in the person's blood, (2) a concentration of .08 of one gram or more but less than .17 of one gram by weight of alcohol per 210 liters of the person's breath, (3) a concentration of .11 of one gram or more but less than .238 of one gram by weight of alcohol per 100 milliliters of the person's urine, (4) a concentration of .17 of one per cent or more by weight per unit volume of alcohol in the person's blood, (5) a concentration of .17 of one gram or more by weight of alcohol per 210 liters of the person's breath, or (6) a concentration of .238 of one gram or more by weight of alcohol per 100 milliliters of the person's urine (R.C. 4511.19(A)--not in the bill). This offense commonly is referred to as "state OMVI."

Under existing law, state OMVI generally is a misdemeanor of the first degree or an unclassified misdemeanor, and the offender generally must be imprisoned in a local correctional facility for a specified period of time. The

length of the mandatory jail term varies, depending upon the number of times that the offender, within the preceding six years, previously has been convicted of state OMVI, a comparable municipal ordinance violation, state OMVUAC (see 'State OMVUAC penalties,' below), or any of a list of specified vehicle-related and alcohol-related offenses (hereafter, these offenses collectively are referred to as "predicate offenses") and whether the offender violated the "under the influence" prohibition or the prohibition described in clauses (1) to (3) of the preceding paragraph (hereafter, collectively referred to as "standard state OMVI") or violated the prohibition described in clauses (4) to (6) of that paragraph (hereafter, collectively referred to as "high-end state OMVI").<sup>1</sup> However, if the offender, within the preceding six years, previously has been convicted three or more times of any of the predicate offenses, state OMVI is a felony of the fourth degree, and the offender must be imprisoned for a specified period of time in either a local jail or in prison. If the offender, at any time in the past, previously has been convicted of state OMVI in circumstances in which it is a felony, state OMVI is a felony of the third degree, and the offender must be sentenced to a prison term. The court may impose a term of imprisonment, in addition to the mandatory term, under the general Misdemeanor Sentencing Law or Felony Sentencing Law. In addition to the terms of imprisonment imposed, the court sentencing an offender for state OMVI must impose a mandatory fine, a mandatory driver's license suspension, and, in specified circumstances for repeat offenders, an order that impounds and immobilizes or criminally forfeits to the state the vehicle used in the offense. The amount of the fine and the duration of the suspension varies, depending upon the number of prior convictions of the offender. (R.C. 4511.99(A) and 2929.13(G); and also 2929.14, 4507.16(B), 4503.233, and 4503.234, not in the bill.)

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<sup>1</sup> For the purposes of state OMVI and state OMVUAC, the predicate offenses include all of the following (R.C. 4511.99(A)(2)(a) and (N)(1)(b)): (1) state OMVI and state OMVUAC, (2) a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, (3) a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, (4) involuntary manslaughter in a case in which the offender was subject to certain OMVI-related sanctions, (5) OMVI-related aggravated vehicular homicide, aggravated vehicular assault, and a municipal ordinance that is substantially equivalent to either of those offenses, (6) recklessness-related aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, vehicular assault, and former R.C. 2903.07, and a municipal ordinance that is substantially equivalent to any of those offenses or that former section, in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, and (7) a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to state OMVI or state OMVUAC.

### **Operation of the bill**

The bill changes the circumstances in which state OMVI is a felony of the fourth degree and provides an additional prison term or jail term for certain repeat state OMVI offenders.

**Fourth degree felony state OMVI.** Under the bill, subject to the provisions described below regarding third degree felony state OMVI, state OMVI is a felony of the fourth degree if, within six years of the offense, the offender previously has been convicted of *three or four* of the predicate offenses *or if, within 20 years of the offense, the offender previously has been convicted of five or more predicate offenses.* The offender may be sentenced to a definite prison term of not less than six months and not more than 30 months. The court must sentence the offender in accordance with the Felony Sentencing Law (R.C. 2929.11 to 2929.19), *must impose as part of the sentence a mandatory prison term of one, two, three, four, or five years as required by and in accordance with R.C. 2929.13(G)(2) if the offender also pleads guilty to or also is convicted of a "State OMVI Five Prior Conviction Specification" as enacted in the bill* (see below), and must impose as part of the sentence either a mandatory term of local incarceration of 60 consecutive days of imprisonment for standard state OMVI or 120 consecutive days for high-end state OMVI in accordance with R.C. 2929.13(G)(1) or a mandatory prison term of 60 consecutive days of imprisonment for standard state OMVI or 120 consecutive days for high-end state OMVI in accordance with R.C. 2929.13(G)(2) if the offender does not plead guilty to and is not convicted of a specification of that type. The bill does not change the existing house arrest, mandatory fine, license suspension, and vehicle immobilization or forfeiture provisions that apply regarding fourth degree felony state OMVI violations. (R.C. 4511.99(A)(4)(a)(i) regarding standard state OMVI and 4511.99(A)(8)(a)(i) regarding high-end state OMVI; also R.C. 2929.01(Y) for conforming changes and R.C. 4511.99(A)(9) and (10).)

R.C. 2929.13(G)(1) and (2) are part of the Felony Sentencing Law, and apply specifically to persons convicted of state OMVI. The bill modifies them consistent with the provisions described in the preceding paragraph, as described below under "**R.C. 2929.13(G) sentencing provisions.**"

**Third degree felony state OMVI.** Under the bill, as under existing law, state OMVI is a felony of the third degree if the offender previously has been convicted of state OMVI under circumstances in which the violation was a felony, regardless of when the prior violation and the prior conviction occurred. But under the bill, the court must sentence the offender in accordance with the Felony Sentencing Law, *must impose as part of the sentence a mandatory prison term of one, two, three, four, or five years as required by and in accordance with R.C. 2929.13(G)(2) if the offender also pleads guilty to or also is convicted of a "State*

*OMVI Five Prior Conviction Specification" as enacted in the bill* (see below), and must impose as part of the sentence a mandatory prison term of 60 consecutive days of imprisonment for standard state OMVI or 120 consecutive days for high-end state OMVI in accordance with R.C. 2929.13(G)(2) if the offender does not plead guilty to and is not convicted of a specification of that type. The bill does not change the existing house arrest, mandatory fine, license suspension, and vehicle immobilization or forfeiture provisions that apply regarding fourth degree felony state OMVI violations. (R.C. 4511.99(A)(4)(a)(ii) regarding standard state OMVI and 4511.99(A)(8)(a)(ii) regarding high-end state OMVI; also R.C. 2929.01(Y) for conforming changes and R.C. 4511.99(A)(9) and (10).)

R.C. 2929.13(G)(1) and (2) are part of the Felony Sentencing Law, and apply specifically to persons convicted of state OMVI. The bill modifies them consistent with the provisions described in the preceding paragraph, as described below under "**R.C. 2929.13(G) sentencing provisions.**"

**R.C. 2929.13(G) sentencing provisions.** Existing R.C. 2929.13(G), unchanged by the bill in this regard, provides that, notwithstanding the general Felony Sentencing Law, if an offender is being sentenced for fourth degree felony state OMVI or third degree felony state OMVI, the court must impose upon the offender a mandatory term of local incarceration or a mandatory prison term determined in accordance with R.C. 2929.13(G)(1) and (2). The bill, though, modifies R.C. 2929.13(G)(1) and (2).

Under the bill, R.C. 2929.13(G)(1) provides that, if an offender is being sentenced for fourth degree felony state OMVI *and if the offender has not pleaded guilty to and has not been convicted of a "State OMVI Five Prior Conviction Specification" as enacted in the bill*, (see below), the court *may impose* upon the offender a mandatory term of local incarceration of 60 days or 120 days, as specified in R.C. 4511.99(A)(4) or (A)(8), as described above. As under existing law, the court cannot reduce the term pursuant to any provision of the Revised Code, the court must specify whether the term is to be served in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility, and the offender must serve the term in the specified type of facility. (R.C. 2929.13(G)(1).)

Under the bill, R.C. 2929.13(G)(2) provides that, if an offender is being sentenced for third degree felony state OMVI, or if the offender is being sentenced for fourth degree felony state OMVI and the court does not impose a mandatory term of local incarceration under R.C. 2929.13(G)(1), *the court must impose upon the offender a mandatory prison term of one, two, three, four, or five years if the offender also pleads guilty to or also is convicted of a "State OMVI Five Prior Conviction Specification" as enacted in the bill* or must impose upon the offender a mandatory prison term of 60 days or 120 days as specified in R.C.

4511.99(A)(4) or (A)(8) of that section if the offender has not pleaded guilty to and has not been convicted of a specification of that type. The court cannot reduce the term pursuant to any provision of the Revised Code. *The bill requires that the offender serve the one-, two-, three-, four-, or five-year mandatory prison term imposed under this provision consecutively to and prior to the prison term imposed for the underlying offense and consecutively to any other mandatory prison term imposed in relation to the offense.* As under existing law, in no case may an offender who once has been sentenced to a mandatory term of local incarceration pursuant to R.C. 2929.13(G)(1) be sentenced to another mandatory term of local incarceration under that division for any state OMVI violation, the court cannot sentence the offender to a community control sanction, and the Department of Rehabilitation and Correction may place an offender sentenced to a mandatory prison term under this provision in an intensive program prison in specified circumstances. (R.C. 2929.13(G)(2); also R.C. 2929.01(Y) and 4511.99(A)(9)(b) and (10).)

**State OMVI Five Prior Conviction Specification.** The bill provides that imposition of a mandatory additional prison term of one, two, three, four, or five years upon an offender under R.C. 2929.13(G)(2) for felony state OMVI, as described above, is precluded unless the indictment, count in the indictment, or information charging the felony state OMVI violation specifies that the offender, within 20 years of committing the offense, previously has been convicted of or pleaded guilty to five or more predicate offense violations. The specification must be stated at the end of the body of the indictment, count, or information, in a specified form set forth in the bill. (R.C. 2941.1413.)

### **State OMVUAC penalties**

#### **Background**

Existing law prohibits a person under 21 years of age from operating a vehicle, streetcar, or trackless trolley in Ohio if the person has: (1) a concentration of at least .02 of one per cent but less than .10 of one per cent by weight per unit volume of alcohol in the person's blood, (2) a concentration of at least .02 of one gram but less than .10 of one gram by weight of alcohol per 210 liters of the person's breath, or (3) a concentration of at least .028 of one gram but less than .14 of one gram by weight of alcohol per 100 milliliters of the person's urine (R.C. 4511.19(B)--not in the bill). This offense commonly is referred to as "state OMVUAC."

Under existing law, state OMVUAC generally is a misdemeanor of the fourth degree, provided that if, within the preceding year, the offender previously has been convicted of any of the predicate offenses, it is a misdemeanor of the third degree. In addition to any other sanction imposed, the court must suspend

the offender's driver's license for a specified period of time. Existing law does not require a mandatory term of imprisonment for state OMVUAC; rather, under the general Misdemeanor Sentencing Law, a court sentencing an offender convicted of state OMVUAC must sentence the offender to a term of imprisonment, a fine, or both, and generally may suspend any term of imprisonment so imposed. (R.C. 4511.99(N); also, R.C. 2929.21, 2929.51, and 4507.16(E).)

### **Operation of the bill**

The bill provides an additional term of imprisonment for certain repeat state OMVUAC offenders.

**Additional term of imprisonment for state OMVUAC.** Under the bill, if an offender is convicted of or pleads guilty to state OMVUAC *and also is convicted of or pleads guilty to a "State OMVUAC Five Prior Conviction Specification" as enacted in the bill* (see below), *and if the court imposes a term of imprisonment for the underlying offense, the court must impose upon the offender an additional definite term of imprisonment of not more than six months.* The additional term of imprisonment cannot be reduced pursuant to any provision of the Revised Code, and the offender must serve the additional term of imprisonment consecutively to and prior to the term of imprisonment imposed for the underlying offense and consecutively to any other mandatory term imposed in relation to the offense. (R.C. 2929.21(J).)

The bill does not otherwise change the penalty for state OMVUAC (R.C. 4511.99(N)).

**State OMVUAC Five Prior Conviction Specification.** The bill provides that imposition of a mandatory, additional, definite term of up to six months upon an offender under R.C. 2929.21(J) for state OMVUAC, as described above, is precluded unless the information charging the state OMVUAC violation specifies that the offender, within 20 years of committing the offense, previously has been convicted of or pleaded guilty to five or more predicate offense violations. The specification must be stated at the end of the body of the information, in a specified form set forth in the bill. (R.C. 2941.1414.)

### **Arrest authority of township police officers over interstate highways**

#### **Existing law**

Existing law authorizes a member of the police force of a township police district and a township constable who has received a certificate from the Ohio Peace Officer Training Council to exercise the power to make arrests for violations of specified Traffic Laws as follows (R.C. 4513.39(B)):



(1) If the population of the township is 60,000 or less, the member or constable is authorized to exercise that power on those portions of all state highways, except those highways included as part of the interstate system that are located within the township police district, in the case of a member of a township police district police force, or within the unincorporated territory of the township, in the case of a township constable;

(2) If the population of the township is greater than 60,000, the member or constable is authorized to exercise that power on those portions of all state highways and highways included as part of the interstate highway system that are located within the township police district, in the case of a member of a township police district police force, or within the unincorporated territory of the township, in the case of a township constable.

### **Operation of the bill**

The bill lowers from 60,000 to 50,000 the threshold population that gives township police officers and township constables authority to make arrests for those types of violations on highways included as part of the interstate highway system (R.C. 4513.39(B)).

### **Retention of evidence of criminal convictions**

#### **Existing law**

**Municipal courts.** Notwithstanding the provisions in the City Records Commission Law, R.C. 1901.41(A) and (B) authorize each municipal court, by rule, to order the destruction or other disposition of the files of cases that have been finally disposed of by the court for at least five years as follows:

(1) If a case has been finally disposed of for at least five years, but less than 15 years prior to the adoption of the rule of court for destruction or other disposition of the files, the court may order the files destroyed or otherwise disposed of only if the court first complies with the requirements described in this paragraph. Generally, all of these files must be copied or reproduced prior to their destruction or disposition in the manner and according to specified statutory procedures. The copies or reproductions of the files must be retained and preserved by the court for a period of ten years after the destruction of the original files, after which the copies or reproductions themselves may be destroyed or otherwise disposed of. Files so destroyed or otherwise disposed of that are solely concerned with criminal prosecutions for minor misdemeanor offenses or that are concerned solely with traffic prosecutions do not have to be copied or reproduced in any manner or under any procedure prior to their destruction or disposition.

(2) If a case has been finally disposed of for 15 years or more prior to the adoption of the rule of court for destruction or other disposition of the files, the court may order the files destroyed or otherwise disposed of without having copied or reproduced the files prior to their destruction.

The court must retain and preserve all court dockets, indexes, journals, and cash books for at least 25 years unless they are reproduced in a statutorily specified manner, in which case the court must retain and preserve the reproductions at least until the expiration of the 25-year period for which the originals would have had to have been retained. Court dockets, indexes, journals, and cash books, and all other court records also are subject to destruction or other disposition under the City Records Commission Law. (R.C. 1901.41(D).)

R.C. 149.39 creates in each municipal corporation a records commission. Each commission provides rules for retention and disposal of municipal corporation records and reviews applications for one-time records disposal and schedules of records retention and disposition submitted by municipal offices.

**County courts and courts of common pleas.** R.C. 149.38 creates in each county a county records commission. Each commission provides rules for retention and disposal of county records and reviews applications for one-time records disposal and schedules of records retention and disposition submitted by county offices. Also, R.C. 2303.14 requires the clerk of the court of common pleas to keep journals, records, books, and papers appertaining to the court and record its proceedings.

**Supreme Court Rules.** Rule 26.05 of the Rules of Superintendence for the Courts of Ohio establishes minimum records retention schedules for Ohio courts. The rule requires municipal and county courts to maintain an index, docket, journal, and case files. The index, docket, and journal must be retained for 25 years. Driving under the influence of alcohol or drug (OVI) case files must be retained for seven years after the date of the final order of the municipal or county court. Except for OVI case files, first through fourth degree misdemeanor traffic and criminal case files must be retained for five years after the date of the final order of the municipal or county court or one year after the issuance of an audit report by the Auditor of State, whichever is later. Minor misdemeanor traffic and minor misdemeanor criminal case files must be retained for two years after the final order of the municipal or county court or one year after the issuance of an audit report by the Auditor of State, whichever is later.

### **Operation of the bill**

Notwithstanding the Revised Code's other records retention provisions, the bill requires the clerk of each municipal court, county court, and court of common



pleas to retain documentation regarding each criminal conviction and plea of guilty involving a case that is or was before the court. The documentation must be in a form that is admissible in a criminal proceeding as evidence of a prior conviction. The bill requires the clerk to retain this documentation for a period of 50 years after the entry of judgment in the case. These provisions apply to records currently retained and to records created on or after the bill's effective date. (R.C. 1901.41(E), 1907.231, and 2301.141.)

## **Vehicular assault**

### **Operation of the bill**

The bill increases the penalty for vehicular assault from a felony of the fourth degree to a felony of the third degree if the offender, in the same course of conduct that resulted in the vehicular homicide, also committed a failure to stop offense (R.C. 2903.08(B)(2)).

### **Existing law**

**Vehicular assault.**<sup>2</sup> A person commits the offense of vehicular assault if the person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, recklessly causes serious physical harm to another person or another's unborn (R.C. 2903.08(A)(2)).

Generally, vehicular assault is a felony of the fourth degree. Vehicular assault is a felony of the third degree if, at the time of the offense, the offender was driving under a suspension or if the offender previously has been convicted of or pleaded guilty to aggravated vehicular assault, vehicular assault, or any traffic-related homicide, manslaughter, or assault offense.<sup>3</sup>

The court must impose a mandatory prison term on an offender who is convicted of or pleads guilty to vehicular assault if either of the following applies

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<sup>2</sup> *The version of R.C. 2903.08 that appears in the bill does not include the amendments made by Sub. H.B. 50 of the 125th General Assembly. The discussion of existing law in this analysis includes these amendments.*

<sup>3</sup> *"Traffic-related homicide, manslaughter, or assault offense" means involuntary manslaughter when the underlying violation is state OVI or OVUAC or a substantially similar municipal violation, aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, aggravated vehicular assault, vehicular assault, or a violation of former R.C. 2903.06, 2903.07, or 2903.08 (aggravated vehicular homicide, vehicular homicide, aggravated vehicular assault, and vehicular assault) (R.C.2303.08(E)(2), by reference to R.C. 2903.06, not in the bill).*

(R.C. 2903.08(D)): (1) the offender previously has been convicted of or pleaded guilty to aggravated vehicular assault, vehicular assault, aggravated vehicular homicide, vehicular homicide, or vehicular manslaughter, or (2) at the time of the offense, the offender was driving under suspension.

In addition to any other sanctions imposed, the court must impose upon the offender a Class 4 suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege or, if the offender previously has been convicted of or pleaded guilty to a violation of aggravated vehicular assault, vehicular assault, or any traffic-related homicide, manslaughter, or assault offense, a Class 3 suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege. (R.C. 2903.08(C).)

**Aggravated vehicular assault.** A person commits the offense of aggravated vehicular assault if the person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, causes serious physical harm to another person or another's unborn as the proximate result of (R.C. 2903.08(A)(1)): (a) committing a state OVI or of a substantially equivalent municipal ordinance, (b) violating R.C. 1547.11(A), not in the bill, which prohibits a person from operating or being in physical control of a vessel underway or manipulating any water skis, aquaplane, or similar device on Ohio waters while under the influence of alcohol or a drug of abuse or with a prohibited concentration of alcohol in the person's system, or of violating a substantially equivalent municipal ordinance, or (c) violating R.C. 4561.15(A)(3), not in the bill, which prohibits a person from operating an aircraft while under the influence of intoxicating liquor, controlled substances, or other habit-forming drugs, or of violating a substantially equivalent municipal ordinance.

Generally, aggravated vehicular assault is a felony of the third degree. Aggravated vehicular assault is a felony of the second degree if any of the following apply (R.C. 2903.08(B)(1)):

- (1) At the time of the offense, the offender was driving under a suspension.
- (2) The offender previously has been convicted of or pleaded guilty to aggravated vehicular assault or vehicular assault.
- (3) The offender previously has been convicted of or pleaded guilty to any traffic-related homicide, manslaughter, or assault offense.

(4) The offender previously has been convicted of or pleaded guilty to three or more prior state OVI violations or a substantially equivalent municipal ordinance within the previous six years.

(5) The offender previously has been convicted of or pleaded guilty to three or more prior violations of R.C. 1547.11(A) or of a substantially equivalent municipal ordinance within the previous six years.

(6) The offender previously has been convicted of or pleaded guilty to three or more prior violations of R.C. 4561.15(A)(3) or of a substantially equivalent municipal ordinance within the previous six years.

(7) The offender previously has been convicted of or pleaded guilty to three or more prior violations of any combination of the offenses listed in paragraph (4), (5), or (6), above.

(8) The offender previously has been convicted of or pleaded guilty to a second or subsequent felony OVI violation.

The court must impose a mandatory prison term on an offender who is convicted of or pleads guilty to aggravated vehicular assault. In addition to any other sanctions imposed, the court must impose upon the offender a Class 1 suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege. (R.C. 2903.08(B)(2) and (D).)

**Failure to stop after an accident.** Under existing law unchanged by the bill, in case of accident to or collision with persons or property upon any of the public roads or highways, due to the driving or operation thereon of any motor vehicle, the person driving or operating the motor vehicle, having knowledge of the accident or collision, immediately must stop the motor vehicle at the scene of the accident or collision and remain at the scene of the accident or collision until the driver or operator has given the driver's or operator's name and address and, if the driver or operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, to any person injured in the accident or collision or to the operator, occupant, owner, or attendant of any motor vehicle damaged in the accident or collision, or to any police officer at the scene of the accident or collision.

If the 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 the driver's name, address, and the registered number of the motor vehicle the driver was operating. The driver or operator then 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 who collides with the motor vehicle must securely attach the information required to be given, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.

A person who fails to comply with the preceding requirements is guilty of failure to stop after an accident, a misdemeanor of the first degree. If the violation results in serious physical harm or death to a person, failure to stop after an accident is a felony of the fifth degree. The court, in addition to any other penalties provided by law, is required to impose upon the offender a Class 5 suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege. No judge may suspend the first six months of the suspension. (R.C. 4549.02, not in the bill.)

**Failure to stop after a nonpublic road accident.** In case of 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 thereon of any motor vehicle, the person driving or operating the motor vehicle, having knowledge of the accident or collision, is required to stop, and, upon request of the person injured or damaged, or any other person, is required to give that person the driver's or operator's name and address, and, if the driver or operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, and, if available, exhibit the driver's or operator's driver's or commercial driver's license.

If the owner or person in charge of the damaged property is not furnished such information, the driver of the motor vehicle involved in the accident or collision, within 24 hours after the accident or collision, is required to forward to the police department of the city or village in which the accident or collision occurred or if it occurred outside the corporate limits of a city or village to the sheriff of the county in which the accident or collision occurred the same information required to be given to the owner or person in control of the damaged property and give 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 who collides with the motor vehicle must securely attach the information required to be given, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.

A person who fails to comply with the preceding requirements is guilty of failure to stop after a nonpublic road accident, a misdemeanor of the first degree. If the violation results in serious physical harm or death to a person, failure to stop after a nonpublic road accident is a felony of the fifth degree. The court, in addition to any other penalties provided by law, must impose upon the offender a Class 5 suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege. No judge may suspend the first six months of the suspension. (R.C. 4549.021, not in the bill.)

**Failure to stop after an accident involving the property of others.** Under existing law, the driver of any vehicle involved in an accident resulting in damage to real property, or personal property attached to real property, legally upon or adjacent to a public road or highway is required to immediately stop and take reasonable steps to locate and notify the owner or person in charge of the property of that fact, of the driver's name and address, and of the registration number of the vehicle the driver is driving and, upon request and if available, must exhibit the driver's or commercial driver's license. If the owner or person in charge of the property cannot be located after reasonable search, the driver of the vehicle involved in the accident resulting in damage to the property, within 24 hours after the accident, is required to forward to the police department of the city or village in which the accident or collision occurred, or if it occurred outside the corporate limits of a city or village to the sheriff of the county in which the accident or collision occurred, the same information required to be given to the owner or person in control of the property and give the location of the accident and a description of the damage insofar as it is known.

A person who fails to comply with these requirements is guilty of failure to stop after an accident involving the property of others, a misdemeanor of the first degree. (R.C. 4549.03, not in the bill.)

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-09-03	p. 340
Reported, H. Criminal Justice	---	---