



**S.B. 32**

125th General Assembly  
(As Introduced)

**Sens. Hottinger, Spada, Fedor, Miller, Mallory, Dann, DiDonato, Fingerhut**

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**BILL SUMMARY**

- Reduces the prohibited concentrations of alcohol in a person's blood, breath, or urine for purposes of the state OMVI law, the state law relating to boating while under the influence of alcohol and the Implied Consent Law.

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**CONTENT AND OPERATION**

**Current law**

Current state law contains general prohibitions against operating a motor vehicle while under the influence of alcohol or with a prohibited concentration of alcohol in the blood, breath, or urine ("state OMVI"). A person of any age is prohibited from operating a vehicle within Ohio if he has a concentration of .10 of 1% or more by weight of alcohol in his blood, a concentration of .10 of one gram or more by weight of alcohol per 210 liters of his breath, or a concentration of .14 of one gram or more by weight of alcohol per 100 milliliters of his urine (sec. 4511.19(A)). A person who is under 21 years of age is prohibited from operating a motor vehicle within Ohio if he has a concentration of at least .02 of 1%, but less than .10 of 1% by weight of alcohol in his blood, a concentration of at least .02 of one gram, but less than .10 of one gram by weight of alcohol per 210 liters of his breath, or a concentration of at least .028 of one gram, but less than .14 of one gram by weight of alcohol per 100 milliliters of his urine (sec. 4511.19(B)). A person who violates any of these latter prohibitions is guilty of the offense of operating a motor vehicle after underage alcohol consumption ("state OMVUAC").

Similarly, current state law also prohibits anyone of any age from operating or being in physical control of any vessel or manipulating any water skis, aquaplane, or similar device ("boating") on the waters of this state if the person is under the influence of alcohol or if he has an alcohol concentration in his blood,

breath, or urine in a prohibited amount. The prohibited amount in each case is identical to that established for OMVI. (Sec. 1547.11(A).) Current law also prohibits boating after underage alcohol consumption in the same manner as for the operation of a motor vehicle (sec. 1547.11(B)).\*

In both the OMVI and BUI statutes, if a person has a concentration of less than .10 of 1% by weight of alcohol in his blood, a concentration of less than .10 of one gram by weight of alcohol per 210 liters of his breath, or a concentration of less than .14 of one gram by weight of alcohol per 100 milliliters of his urine, that fact may be considered with other competent evidence in determining whether a person is "under the influence" of alcohol (secs. 1547.11(D) and 4511.19(D)(2)).

### **Operation of the bill**

The bill modifies the offenses of state OMVI, state OMVUAC, and state BUI laws by reducing the specified concentrations of alcohol that have to be present in a person's blood, breath, or urine *per se* in order for the person to have committed the offense. The bill prohibits a person of any age from operating a motor vehicle within this state and from boating on the waters of this state if he has a concentration of .08 of 1% or more by weight of alcohol in his blood, a concentration of .08 of one gram or more by weight of alcohol per 210 liters of his breath, or a concentration of .11 of one gram or more by weight of alcohol per 100 milliliters of his urine (secs. 1547.11(A) and 4511.19(A)). The bill also prohibits a person who is under 21 years of age from operating a motor vehicle within Ohio and from boating on the waters of this state if he has a concentration of at least .02 of 1%, but less than .08 of 1% by weight of alcohol in his blood, a concentration of at least .02 of one gram, but less than .08 of one gram by weight of alcohol per 210 liters of his breath, or a concentration of at least .028 of one gram, but less than .11 of one gram by weight of alcohol per 100 milliliters of his urine (secs. 1547.11(B) and 4511.19(B)).

The bill also provides in both the OMVI and BUI statutes that if a person has a concentration of less than .08 of 1% by weight of alcohol in his blood, a concentration of less than .08 of one gram by weight of alcohol per 210 liters of his breath, or a concentration of less than .11 of one gram by weight of alcohol per 100 milliliters of his urine, that fact may be considered with other competent evidence in determining whether the person is "under the influence" of alcohol (secs. 1547.11(D) and 4511.19(D)(2)).

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\* *These prohibitions will be referred to collectively as "BUI law."*

**Corresponding changes in Implied Consent Law and OMVI initial appearance provision**

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

**Corresponding reduction in prohibited concentrations that will become effective January 1, 2004**

Amended Substitute Senate Bill No. 123 of the 124th General Assembly made a large number of changes in the traffic laws. That act had a delayed effective date of January 1, 2004, so there are a number of Revised Code sections that have a current version and a future version that takes effect January 1, 2004.

Am. Sub. S.B. 123 included a new *per se* concentration prohibition in both the state OMVI and BUI laws that is not a part of current law. This concentration is .12 of 1% or more by weight per unit volume of alcohol in a person's blood serum or plasma (future versions of R.C. 1547.11(A)(4) and 4511.19(A)(3)). The bill makes a corresponding reduction in this amount, reducing it from .12 to .096.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	02-13-03	p. 110

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