



**H.B. 329**

126th General Assembly  
(As Introduced)

**Rep. DeWine**

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**BILL SUMMARY**

- Specifies that certain class seven suspensions of driving privileges be for a definite period.
- Specifies that a class seven suspension of driving privileges for "driving under OVI suspension" or "wrongful entrustment of a motor vehicle" be for not less than 30 days.
- Makes suspension of driving privileges for "driving under suspension or in violation of a license restriction," "operating a motor vehicle without a valid license," and "driving under financial responsibility law suspension or cancellation" discretionary on the part of the court rather than mandatory.
- Reduces the suspension of driving privileges for reckless operation from a class five to a class seven suspension and authorizes such a suspension if the driver operates the motor vehicle in "a manner that creates a significant risk to public safety."
- Reduces the suspension of driving privileges for "failure to comply with an order or signal of a police officer" that results from failing to comply with a lawful order or direction of a police officer invested with authority to direct, control, or regulate traffic from a class two to a class five suspension if the offense did not create a substantial risk of physical harm or death to a person.
- Requires termination of an administrative suspension of driving privileges for certain offenses related to when a driver is found not guilty of operating a vehicle under the influence of alcohol or drugs.

- Authorizes a court to grant limited driving privileges following a third or subsequent failure to maintain proof of financial responsibility within five years upon proof of financial responsibility and the payment of the financial responsibility reinstatement fee and the financial responsibility nonvoluntary compliance fee, but not for the first 30 days of the suspension.
- Provides for legal representation of the Registrar of Motor Vehicles by the chief legal officer of a municipal corporation or the county prosecuting attorney when a person whose license is suspended for failing to maintain proof of financial responsibility petitions for limited driving privileges.
- Requires that a petition for limited driving privileges following a suspension for drug- or alcohol-related offenses be made under the general statute for granting limited driving privileges.
- Requires a mandatory prison term for aggravated vehicular assault only if the violation is a second-degree felony or if the offender was previously convicted of an OVI-related offense.
- Authorizes the operation of a motor vehicle or motorcycle with a valid license issued by another jurisdiction and modifies language relating to the circumstances under which operating a motor vehicle without a valid license is a first-degree misdemeanor.
- Changes the date by which a mayor who conducts a mayor's court must register with the Supreme Court and authorizes a mayor's court to establish a payment plan for or grant an extension for payment of fees required to reinstate suspended driving privileges.
- Specifies that "failure to stop after an accident" and "failure to stop after a nonpublic road accident" are felonies if the accident or collision that gives rise to the duty to stop results in serious physical harm to or the death of a person.
- Requires the Superintendent of the Bureau of Criminal Identification and Investigation to certify electronic monitoring devices.

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## CONTENT AND OPERATION

### *Suspensions of driving privileges*

#### *Class seven suspensions*

R.C. 4510.02 defines different classes of suspensions of driving privileges (suspension of a person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonoperating privilege) for violations of the Motor Vehicle Law. A class seven suspension is for a definite period not to exceed one year. The bill makes changes in the penalty provisions of several Revised Code sections that currently require a court to impose a class seven suspension and in one case reduces the authorized suspension from a class five to a class seven.

*Driving under suspension or in violation of a license restriction.* Existing law prohibits a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under any provision of the Revised Code, other than Chapter 4509. (financial responsibility), or under any applicable law in any other jurisdiction in which the person's license or permit was issued, from operating a motor vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within Ohio during the period of suspension unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges. Existing law also prohibits a person from operating a motor vehicle upon a highway or any public or private property

used by the public for purposes of vehicular travel or parking in Ohio in violation of any medical restriction of the person's driver's or commercial driver's license or permit. (R.C. 4510.11(A) and (B).)

Whoever violates either prohibition is guilty of "driving under suspension or in violation of a license restriction," a misdemeanor of the first degree. Under existing law, a court must impose a class seven suspension of the offender's driving privileges for a violation of either prohibition. The bill makes the suspension discretionary on the part of the court rather than mandatory and reiterates that the suspension must be for a definite period. (R.C. 4510.11(C)(1).)

**Operating a motor vehicle without a valid license.** Subject to certain exemptions, existing law prohibits a person from operating a motor vehicle or motorcycle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in Ohio unless the person has a valid Ohio driver's license, commercial driver's license, or motorcycle operator's license issued pursuant to statute. Whoever violates this prohibition is guilty of "operating a motor vehicle without a valid license," a misdemeanor of the first, second, third, or fourth degree.

Existing law requires the court to impose a class seven suspension of the offender's driving privileges for a violation of this prohibition. The bill makes the suspension discretionary on the part of the court rather than mandatory and reiterates that the suspension must be for a definite period. (R.C. 4510.12(D).)

**Driving under OVI suspension.** Existing law prohibits a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended for violating certain laws relating to the operation or control of a motor vehicle while under the influence of alcohol or drugs or after underage alcohol consumption from operating a motor vehicle upon the public roads or highways in Ohio during the period of the suspension. Whoever violates this prohibition is guilty of "driving under OVI suspension." One of the penalties for this offense is a class seven suspension of the offender's driving privileges. The bill specifies that the suspension must be for a definite period of not less than 30 days. (R.C. 4510.14(E).)

**Driving under financial responsibility law suspension or cancellation.** Existing law prohibits a person whose driver's or commercial driver's license or temporary instruction permit or nonresident's operating privilege has been suspended or canceled pursuant to R.C. Chapter 4509. (financial responsibility)<sup>1</sup>

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<sup>1</sup> R.C. Chapter 4509. requires that owners and drivers of motor vehicles carry liability insurance and deals generally with proof of financial responsibility, insurance policy

from operating a motor vehicle in Ohio, or knowingly permitting a motor vehicle owned by the person to be operated by another person in Ohio, during the period of the suspension or cancellation, except as specifically authorized by R.C. Chapter 4509. Existing law also prohibits a person from operating a motor vehicle in Ohio, or knowingly permitting a motor vehicle owned by the person to be operated by another person in Ohio, during the period in which the person is required by R.C. 4509.45 to file and maintain proof of financial responsibility for a violation of R.C. 4509.101, unless proof of financial responsibility is maintained with respect to that vehicle. Whoever violates either prohibition is guilty of "driving under financial responsibility law suspension or cancellation," a misdemeanor of the first degree. (R.C. 4510.16(A) and (B).)

Existing law requires a court to impose a class seven suspension of the offender's driving privileges for a violation of either prohibition. The bill makes the suspension discretionary on the part of the court rather than mandatory and reiterates that the suspension must be for a definite period. (R.C. 4510.16(B)(1).)

**Wrongful entrustment of a motor vehicle.** Existing law prohibits a person from permitting a motor vehicle owned by the person or under the person's control to be driven by another if the offender knows or has reasonable cause to believe that the other person does not have a valid driver's or commercial driver's license or permit or valid nonresident driving privileges, that the other person's driver's or commercial driver's license or permit or nonresident operating privileges has been suspended or canceled under any provision of the Revised Code, that the other person's act of driving the motor vehicle would violate the financial responsibility statutes, or that the other person's act of driving would violate the prohibition against driving under the influence of alcohol or drugs or any substantially equivalent municipal ordinance. Whoever violates this prohibition is guilty of "wrongful entrustment of a motor vehicle," a misdemeanor of the first degree. (R.C. 4511.203(A) and (C).)

Under existing law, a court must impose a class seven suspension of the offender's driving privileges for a violation of this prohibition. The bill specifies that the suspension must be for a definite period of not less than 30 days. (R.C. 4511.203(C).)

**Reckless operation.** Under existing law, when a person is found guilty of operating a motor vehicle in violation of a state law or an ordinance of a political subdivision "relating to reckless operation," the court may impose a class *five* suspension of the offender's driving privileges. A class five suspension is for a

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*requirements, suspensions for inadequate proof of financial responsibility, and related matters.*

definite period of six months to three years. The bill modifies this suspension by instead authorizing the court to impose a class *seven* suspension of the offender's driving privileges if the person is found guilty of operating a motor vehicle in "a manner that creates a significant risk to public safety." (R.C. 4510.15.)

#### **Failure to comply with an order or signal of a police officer**

Existing law prohibits a person from (1) failing to comply with a lawful order or direction of a police officer invested with authority to direct, control, or regulate traffic or (2) operating a motor vehicle so as to willfully elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop. Whoever violates this prohibition is guilty of "failure to comply with an order or signal of a police officer," a misdemeanor of the first degree or felony of the third or fourth degree depending upon the facts of the case. (R.C. 2921.331(A), (B), and (C).) Existing law requires a court to impose a class *two* suspension of the offender's driving privileges (a definite period of three years to life), in addition to any other sanction, for a violation of either prohibition. The bill reduces the length of the suspension and requires the court to impose a class *five* suspension of the offender's driving privileges (six months to three years) for a violation of the first prohibition if the offense did not create a substantial risk of physical harm or death to a person; otherwise, the court must impose a class two suspension of the offender's driving privileges for a violation of either prohibition. (R.C. 2921.331(E).)

#### **Termination of administrative suspension for OVI**

Under existing law, a law enforcement officer who arrests a person for operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them (R.C. 4511.19(A)), operating a vehicle after underage alcohol consumption (R.C. 4511.19(B)), having physical control of a vehicle while under the influence (R.C. 4511.194) or a substantially equivalent municipal ordinance, or a municipal OVI ordinance may request that the person submit to a chemical test of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug or alcohol, and drug content of the bodily fluid. Upon receipt of a report from the officer that the arrested person submitted to a test and that the test showed an unlawful concentration of alcohol in the person's whole blood, blood serum or plasma, breath, or urine, the Registrar of Motor Vehicles must administratively suspend the person's driving privileges. (R.C. 4511.191(A) and (C).) The Registrar must terminate the administrative suspension of the person's driving privileges upon receiving notice that the person has pleaded guilty to or, after pleading no contest, has been convicted of operating a motor vehicle in violation of R.C. 4511.19 (state OVI) or a municipal OVI ordinance. The bill adds the requirement that the Registrar must terminate the

suspension upon receipt of notice that the person has been found not guilty of the offense. (R.C. 4511.191(C)(2).)

### **Suspension for points**

Existing law creates a procedure by which the Registrar of Motor Vehicles must suspend the driving privileges of a person against whom a specified number of points assessed for moving traffic violations have been charged within certain specified time periods. Points are assessed for moving traffic violations in accordance with a statutory schedule. The Registrar of Motor Vehicles must suspend the driving privileges of a person who accumulates 12 or more points within a two-year period. Under existing law, a person is guilty of a misdemeanor of the first degree if the person's driving privileges are suspended as a repeat traffic offender and the person operates a motor vehicle on the public roads and highways during the suspension. Existing law requires the court to sentence the offender to a minimum of at least three days in jail. It also prohibits any court from suspending the first three days of jail time imposed for being a repeat traffic offender. (R.C. 4510.037(J).) The bill rewords the penalty provision without changing its substance and moves it to a separate section, specifically prohibits operating a motor vehicle under such a suspension, and specifies that a violation of the provision is the offense of driving under a points suspension (R.C. 4510.18).

### **Limited driving privileges**

#### **Failure to maintain proof of financial responsibility**

Existing law prohibits a person from operating or permitting the operation of a motor vehicle unless proof of financial responsibility is maintained continuously throughout the registration period with respect to that vehicle or, in the case of a driver who is not the owner, with respect to the driver's operation of the vehicle. For a violation of the prohibition, existing law subjects the offender to a three-month administrative suspension of driving privileges and impoundment of the person's license by the Registrar of Motor Vehicles, but allows a court to grant limited driving privileges upon proof of financial responsibility and the payment of required fees. For a second violation within five years, existing law subjects the offender to a one-year suspension of the offender's driving privileges; a court may not grant limited driving privileges during the first 15 days of the suspension. For a third or subsequent violation within five years of the original violation, existing law subjects the offender to a two-year suspension of the offender's driving privileges, and a court may not grant limited driving privileges during the suspension. (R.C. 4509.101(A).)

The bill authorizes a court to grant limited driving privileges for a violation of the prohibition following a third or subsequent violation within five years upon

proof of financial responsibility and the payment of a financial responsibility reinstatement fee (\$75 to \$500 depending upon number of violations) and a financial responsibility nonvoluntary compliance fee of up to \$50 determined by the Registrar, but does not permit the court to do so for the first 30 days of the suspension of the offender's driving privileges. (R.C. 4509.101(A)(2)(c).) The bill provides that if a person whose license is suspended for failing to maintain proof of financial responsibility files a petition for limited driving privileges in municipal court, the Registrar must be represented as provided in R.C. 1901.34 (usually by the chief legal officer of the municipal corporation, but in some cases by the county prosecuting attorney). If the petition is filed in juvenile or county court, the bill requires the county prosecutor of the county in which the petitioner resides to represent the Registrar or, if the petitioner resides in a municipal corporation, requires the city law director or village solicitor of the municipal corporation to represent the Registrar. (R.C. 4509.101(M).)<sup>2</sup>

### **Operating under the influence of alcohol or drugs**

Existing law requires a class D administrative suspension (six months) of the driving privileges of a person who is convicted of or pleads guilty to an offense under a statute of another state or the United States that is substantially similar to any of a variety of drug-offense statutes in R.C. Chapter 2925. or to an offense under a statute of another state or a municipal ordinance of a municipal corporation in another state that is substantially similar to R.C. 4511.19 (operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them; operating a vehicle after underage alcohol consumption). Under existing law, a court may grant a petition for limited driving privileges filed by a person whose driving privileges are suspended for any of these causes *upon the person's agreement to pay the cost of the petition proceedings and satisfactory proof of reasonable cause to believe that the suspension would seriously affect the person's ability to continue his or her employment.* The bill eliminates the italicized provision and instead requires that the petition request a grant of limited driving privileges under R.C. 4510.021. The latter section, not in the bill, authorizes a court to grant limited driving privileges for occupational, educational, vocational, or medical purposes; to take the driver's or commercial driver's license examination; or to attend court-ordered treatment. (R.C. 4510.17(E).)

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<sup>2</sup> The bill provides for representation of the Registrar if a person petitions for limited driving privileges under R.C. 4509.101(E). The reference should be to R.C. 4509.101(A)(2).

### **Sentence for aggravated vehicular assault**

Existing law prohibits a person from causing serious physical harm to another person or to another's unborn while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft as a proximate result of committing a violation of a statute or ordinance that prohibits operating motor vehicles (R.C. 4511.19(A)), watercraft (R.C. 1547.11(A)), or aircraft (R.C. 4561.15(A)(3)) while under the influence of alcohol or drugs. Whoever violates this prohibition is guilty of "aggravated vehicular assault," a felony of the third degree unless the offender was driving while under suspension at the time of the offense or was previously convicted of one or more specified offenses, in which case the offense is a felony of the second degree. Existing law requires the court to impose a mandatory prison term on a person who is convicted of or pleads guilty to "aggravated vehicular assault." (R.C. 2903.08(A)(1), (B)(1), and (D).)

The bill makes a prison term mandatory only if the violation is a felony of the second degree or if the offender previously was convicted of or pleaded guilty to an OVI-related offense (R.C. 2903.08(D)(1)).

The bill defines OVI-related offense as a violation of any of the following (R.C. 2903.08(F)(5)):

- (1) R.C. 1547.11(A) (operating or being in physical control of any vessel underway or manipulating any water skis, aquaplane, or similar device on the waters in Ohio while under the influence of alcohol or drugs);
- (2) R.C. 2903.04 in circumstances in which division (D) of that section applies (involuntary manslaughter, if the offender was operating a motor vehicle, snowmobile, locomotive, watercraft, or aircraft);
- (3) R.C. 2903.06(A)(1) (vehicular homicide, if the offender was operating under the influence of alcohol or drugs);
- (4) R.C. 2903.08(A)(1) (aggravated vehicular assault);
- (5) R.C. 2919.22(C) (endangering children by operating a vehicle, streetcar, or trackless trolley while under the influence of alcohol or drugs);
- (6) R.C. 2923.15 (using weapons while intoxicated);
- (7) R.C. 2923.16(D) (improperly handling firearms in a motor vehicle while under the influence of alcohol or drugs)

(8) R.C. 4511.19(A)(1) (operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them);

(9) R.C. 4511.194 (having physical control of a vehicle while under the influence);

(10) R.C. 4561.15(A)(3) (operating an aircraft on the land or water or in the air space over Ohio while under the influence of intoxicating liquor, controlled substances, or other habit-forming drugs).

### **Operating without a license**

Existing law prohibits any person from operating a motor vehicle or motorcycle without a valid driver's license, commercial driver's license, or motorcycle operator's license *issued under R.C. Chapter 4507. or 4506.* (i.e., by the Ohio Registrar of Motor Vehicles). The bill modifies this prohibition such that no person may so operate a motor vehicle or motorcycle without a valid license issued *by this state or another jurisdiction.*<sup>3</sup> Existing law requires that a motorcycle operator's license be issued by the Registrar of Motor Vehicles in the form of an endorsement on the applicant's driver's or commercial driver's license or, if the applicant does not have a license, in the form of a restricted license. The bill provides that the stated requirements as to the form of the motorcycle operator's license apply only if the license is issued by the state of Ohio. (R.C. 4510.12(A)(1) and (2).)

Under existing law with respect to the offense of operating a motor vehicle without a valid license, "[i]f the trier of fact finds that the offender never has held a valid driver's or commercial driver's license issued by this state or any other jurisdiction," the offense is a misdemeanor of the first degree. Under other specified circumstances, the offense is a misdemeanor of the first, second, third, or fourth degree depending upon the offender's prior violations. The bill eliminates the quoted language and states that, except as otherwise provided in the section, the offense is a misdemeanor of the first degree. (R.C. 4510.12(B)(1).)

### **Mayor's court**

Under existing law, a mayor who in any year conducts a mayor's court must register with the Supreme Court by the later of January 15 of that year or 15 days before first conducting the court. The bill changes the registration deadline to the later of February 15 or 15 days before first conducting the court. (R.C. 1905.33(A).)

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<sup>3</sup> R.C. 4507.04, not in the bill, authorizes nonresidents who have valid licenses in their home states to drive in Ohio.

Existing law provides for reinstatement fees for the reinstatement of suspended driving privileges. When a municipal or county court determines that an offender cannot reasonably pay the fees, the court may establish a payment plan or grant an extension. If circumstances change, the court may amend its order as justice requires. The bill extends these provisions to mayor's courts. (R.C. 4510.10(C) and (D).)

**Failure to stop after an accident and failure to stop after a nonpublic road accident**

Existing law requires that a driver or operator of a motor vehicle involved in an accident or collision stop the motor vehicle and remain at the scene of the accident or collision until the driver or operator has given his or her name and address, the name and address of the owner of the vehicle, and the vehicle's registration number to any person injured in the accident or collision, to the operator, occupant, owner, or attendant of any motor vehicle damaged in the accident or collision, or to a police officer at the scene. A violation of the requirement is "failure to stop after an accident," a misdemeanor of the first degree. If the *violation* (failure to stop) results in serious physical harm to a person, it is a felony of the fifth degree. If the *violation* results in a death, it is a felony of the third degree. (R.C. 4549.02.)

Under the bill, the offense is enhanced if the violation (failure to stop) *or the accident or collision* results in serious physical harm to or the death of a person (R.C. 4549.02(B)).<sup>4</sup>

Existing law has similar requirements for a person driving or operating a motor vehicle involved in 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 if the injury or damage results from the driving or operation of the motor vehicle. Whoever violates the requirement to stop and give the required information is guilty of "failure to stop after a nonpublic road accident" and is subject to the same penalties as for "failure to stop after an accident." The bill renames the offense "failure to stop after a nonpublic road accident or collision." It also enhances the penalty if the accident or collision causes death or serious physical harm to a person as is done for "failure to stop after an accident." (R.C. 4549.021.)

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<sup>4</sup> *The bill does not change the name of the offense in R.C. 4549.02(B) (failure to stop after an accident), but subsequently in the same division it refers to the offense as "failure to stop after an accident or collision."*

**Certification of electronic monitoring devices**

Revised Code Chapters 2152., 2929., and 2967. authorize the electronic monitoring of delinquent children, criminal offenders, and offenders under transitional or post-release control. The bill requires that the Superintendent of the Bureau of Criminal Identification and Investigation certify specific types and brands of electronic monitoring devices for use under these chapters. A manufacturer who wishes to obtain certification must submit a written application and application fee to the Superintendent. The bill directs the Superintendent to adopt rules to implement the certification requirement. (R.C. 109.66.)

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	08-16-05	p. 1605

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