



Dennis M. Papp

Bill Analysis
Legislative Service Commission

S.B. 23

126th General Assembly
(As Introduced)

Sens. Clancy, Cates, Gardner, Spada, Schuler

BILL SUMMARY

- Provides that, whenever a law enforcement officer issues a ticket, citation, or summons to an offender charging the offender with a "motor vehicle traffic offense," the officer must indicate on the document if at the time of the violation the offender was involved in a motor vehicle accident with a "public service vehicle" and provides that, if the offender was involved in such an accident, the offender is not permitted to enter a written plea of guilty and waive the offender's right to contest the ticket, citation, or summons in a trial but instead must appear in person in the proper court to answer the charge.
- Provides that when an offender appears in court to answer a charge as described in the preceding dot point, if the offender pleads guilty to or is convicted of the motor vehicle traffic offense and if the trier of fact finds beyond a reasonable doubt that at the time of the offense, the offender was involved in a motor vehicle accident with a public service vehicle and the person's commission of the offense was the proximate cause of the accident, the motor vehicle traffic offense is an offense of the next higher degree than the degree specified in the Revised Code for that offense.

CONTENT AND OPERATION

The bill provides that, whenever a law enforcement officer issues a ticket, citation, or summons to an offender charging the offender with a "motor vehicle traffic offense" (see below), the officer must indicate on the ticket, citation, or summons if at the time of the violation the offender was involved in a motor vehicle accident with a "public service vehicle" (see below). If the law enforcement officer makes such an indication on the ticket, citation, or summons, the offender is not permitted to enter a written plea of guilty and waive the

offender's right to contest the ticket, citation, or summons in a trial but instead must appear in person in the proper court to answer the charge (see **COMMENT 1**).

When the offender appears in court to answer the charge, if the offender pleads guilty to or is convicted of the motor vehicle traffic offense and if the trier of fact (the jury or the judge hearing the case without a jury) finds beyond a reasonable doubt that at the time of the offense the offender was involved in a motor vehicle accident with a public service vehicle and the person's commission of the traffic offense was the proximate cause of the accident, the motor vehicle traffic offense is an offense of the next higher degree than the degree specified in the Revised Code for that offense. (R.C. 4511.86(B).)

As used in these provisions (R.C. 4511.86(A)):

(1) "Motor vehicle traffic offense" means a violation of the Revised Code for which points are assessed against a person's driver's license pursuant to R.C. 4510.036 (see **COMMENT 2**) or any speeding offense under R.C. 4511.21 (see **COMMENT 3**).

(2) "Public service vehicle" means all of the following: (a) ambulances, whether publicly or privately owned, (b) motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of this state, (c) vehicles used by public or volunteer fire departments, including fire engines, fire trucks, and all other vehicles belonging to or used by such a department in the discharge of its functions, and (d) vehicles hauling solid waste as defined in R.C. 3734.01 (see **COMMENT 4**).

COMMENT

1. Some of the motor vehicle traffic offenses to which the bill applies currently are governed by provisions of the Ohio Traffic Rules that allow for resolution of a charge of the offense without a formal appearance before a court. The Traffic Rules were adopted by the Supreme Court pursuant to authority granted the Court by R.C. 2935.17 and 2937.46 and prescribe the procedure in all Ohio courts in "traffic cases." As used in the Rules, "traffic case" means any proceeding, other than a proceeding resulting from a felony indictment, that involves one or more violations of a law, ordinance, or regulation governing the operation and use of vehicles, conduct of pedestrians in relation to vehicles, or weight, dimension, loads or equipment, or vehicles drawn or moved on highways or bridges, but it does not include any proceeding that results in a felony indictment (Traffic Rules 1 and 2).

The Traffic Rules require each municipal court, county court, and mayor's court, and authorize each juvenile court, to establish a Traffic Violations Bureau and specify that the Bureau must accept appearance, waiver of trial, plea of guilty, and payment of fine and costs *for offenses within its authority* (see the next paragraph). The Rules also require each such court to establish and publish a schedule of fines and costs for all offenses. The schedule must be distributed to all law enforcement agencies operating within the court's jurisdiction and must be prominently displayed at the place in the Traffic Violations Bureau where fines are paid. (Traffic Rule 13.)

All "traffic offenses" except those listed in clauses (1) to (9) of this paragraph may be disposed of by a Traffic Violations Bureau (note that the Rules do not define "traffic offenses," but do define "traffic cases," as described in the second preceding paragraph). The following "traffic offenses" cannot be processed by a Traffic Violations Bureau: (1) indictable offenses, (2) operating a motor vehicle while under the influence of alcohol or any drug of abuse, (3) leaving the scene of an accident, (4) driving while under suspension or revocation of a driver's or commercial driver's license, (5) driving without being licensed to drive, except where the driver's or commercial driver's license had been expired for six months or less, (6) a third moving traffic offense within a 12-month period, (7) failure to stop and remain standing upon meeting or overtaking a school bus stopped on the highway for the purpose of receiving or discharging a school child, (8) willfully eluding or fleeing a police officer, and (9) drag racing.

Under the Rules, within seven days after the date of issuance of the ticket, a defendant charged with an offense that can be processed by a Traffic Violations Bureau may do either of the following: (1) appear in person at the Bureau, sign a plea of guilty and waiver of trial provision of the ticket, and pay the total amount of the fine and costs, or (2) sign the guilty plea and waiver of trial provision of the ticket and mail the ticket and a check, money order, or other approved form of payment for the total amount of the fine and costs to the Bureau. A court may establish a procedure for accepting, through its Traffic Violations Bureau, guilty pleas, waivers of trial, and payments of fines and costs by telephone or other electronic means. The form of payment accepted by telephone or other electronic means must be approved by the Bureau. Remittance of the fine and costs to the Traffic Violations Bureau by any means other than personal appearance by the defendant at the Bureau constitutes a guilty plea and waiver of trial whether or not the guilty plea and waiver of trial provision of the ticket are signed by the defendant. (Traffic Rule 13.)

2. Existing R.C. 4510.036, not in the bill, requires every court of record or mayor's court before which a person is charged with a violation for which points are chargeable as described below to assess the number of points chargeable as

described below in the correct space assigned on the reporting form. A United States district court with jurisdiction within Ohio and before which a person is charged with a violation for which points are chargeable as described below may assess the number of points chargeable as described below in the correct space assigned on the reporting form. A court must assess the following points for an offense based on the following formula:

(a) Aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, aggravated vehicular assault, or vehicular assault when the offense involves the operation of a vehicle, streetcar, or trackless trolley on a highway or street--6 points;

(b) A violation of R.C. 2921.331 or any ordinance prohibiting the willful fleeing or eluding of a law enforcement officer--6 points;

(c) A violation of R.C. 4549.02 or 4549.021 or any ordinance requiring the driver of a vehicle to stop and disclose identity at the scene of an accident--6 points;

(d) A violation of R.C. 4511.251 or any ordinance prohibiting street racing--6 points;

(e) A violation of R.C. 4510.11, 4510.14, 4510.16, or 4510.21 or any ordinance prohibiting the operation of a motor vehicle while the driver's or commercial driver's license is under suspension--6 points;

(f) A violation of R.C. 4511.19(A), any ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them, or any ordinance substantially equivalent to R.C. 4511.19(A) prohibiting the operation of a vehicle with a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine--6 points;

(g) A violation of R.C. 2913.03 that does not involve an aircraft or motorboat or any ordinance prohibiting the operation of a vehicle without the consent of the owner--6 points;

(h) Any offense under the motor vehicle laws of Ohio that is a felony, or any other felony in the commission of which a motor vehicle was used--6 points;

(i) A violation of division R.C. 4511.19(B) or any ordinance substantially equivalent to that division prohibiting the operation of a vehicle with a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine--4 points;

(j) A violation of R.C. 4511.20 or any ordinance prohibiting the operation of a motor vehicle in willful or wanton disregard of the safety of persons or property--4 points;

(k) A violation of any law or ordinance pertaining to speed:

(i) Notwithstanding 2(k)(ii) and (iii), below, when the speed exceeds the lawful speed limit by 30 miles per hour or more--4 points;

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

(iii) When the speed exceeds the lawful speed limit of less than 55 miles per hour by more than five miles per hour--2 points;

(iv) When the speed does not exceed the amounts set forth in 2(k)(i), (ii), and (iii), above--0 points.

(l) Operating a motor vehicle in violation of a restriction imposed by the Registrar of Motor Vehicles--2 points;

(m) All other moving violations reported under the section--2 points.

3. Existing R.C. 4511.21, not in the bill, sets forth a series of speeding prohibitions.

(a) **General prohibition.** The general prohibition prohibits a person from 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, or driving a 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.

(b) **Prima-facie lawful.** The section specifies that it is prima-facie lawful, in the absence of a lower limit declared by the Director of Transportation or local authorities, for the operator of a motor vehicle, trackless trolley, or streetcar to operate the same at a speed not exceeding the following:

(i) 20 miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when 20 miles per hour school speed limit signs are erected, subject to certain exceptions and special circumstances;

(ii) 25 miles per hour in all other portions of a municipal corporation, except on state routes outside business districts, through highways outside business districts, and alleys;

(iii) 35 miles per hour on all state routes or through highways within municipal corporations outside business districts, except as provided in 3(b)(iv) and (vi), below;

(iv) 55 miles per hour on controlled-access highways and expressways within municipal corporations;

(v) 55 miles per hour on highways outside of municipal corporations, other than freeways as provided in 3(b)(xii), below;

(vi) 55 miles per hour on state routes within municipal corporations outside urban districts unless a lower prima-facie speed is established as further provided in the section;

(vii) 15 miles per hour on all alleys within the municipal corporation;

(viii) 55 miles per hour at all times on freeways with paved shoulders inside municipal corporations, other than freeways as provided in 3(b)(xii), below;

(ix) 55 miles per hour at all times on freeways outside municipal corporations, other than freeways as provided in 3(b)(xii), below;

(x) 55 miles per hour at all times on all portions of freeways that are part of the interstate system and on all portions of freeways that are not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system for operators of any motor vehicle weighing in excess of 8,000 pounds empty weight and any noncommercial bus;

(xi) 55 miles per hour for operators of any motor vehicle weighing 8,000 pounds or less empty weight and any commercial bus at all times on all portions of freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995, and freeways that are not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995, unless a higher speed limit is established under R.C. 4511.21(L);

(xii) 65 miles per hour for operators of any motor vehicle weighing 8,000 pounds or less empty weight and any commercial bus at all times on all portions of the following: freeways that are part of the interstate system and that had such a



speed limit established prior to October 1, 1995, and freeways that are not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995; freeways that are part of the interstate system and freeways that are not part of the interstate system but are built to the standards and specifications that are applicable to freeways that are part of the interstate system, and that had such a speed limit established under R.C. 4511.21(L); and rural, divided, multi-lane highways that are designated as part of the national highway system under the federal "National Highway System Designation Act of 1995," and that had such a speed limit established under R.C. 4511.21(M).

(c) **Prima-facie unlawful.** The section provides that it is prima-facie unlawful for any person to exceed any of the speed limitations in 3(b)(i), (ii), (iii), (iv), (vi), and (vii), above, or any declared pursuant to the section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations described in the next paragraph.

(d) **Additional prohibitions.** The bill also prohibits a person from operating a motor vehicle, trackless trolley, or streetcar upon a street or highway as follows: (i) at a speed exceeding 55 miles per hour, except upon a freeway as provided in 3(b)(xii), above, (ii) at a speed exceeding 65 miles per hour upon a freeway as provided in 3(b)(xii), above, except as otherwise provided in clause (iii) of this paragraph, (iii) if a motor vehicle weighing in excess of 8,000 pounds empty weight or a noncommercial bus as prescribed in 3(b)(x), above, at a speed exceeding 55 miles per hour upon a freeway as provided in that provision, (iv) 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 R.C. 4511.21(L)(2) or (M), (v) at a speed exceeding 65 miles per hour upon a freeway for which such a speed limit has been established through the operation of R.C. 4511.21(L)(3), or (vi) at a speed exceeding the posted speed limit upon a freeway for which the Director has determined and declared a speed limit pursuant to R.C. 4511.21(I)(2).

The section authorizes specified state and local officials to revise the specified prima-facie speed limits or other speed limits in specified circumstances.

4. Existing R.C. 3734.01, not in the bill, defines "solid wastes" as such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, including at least ash that results from the combustion of coal and ash that results from the combustion of coal in combination with scrap tires where

scrap tires comprise not more than 50% of heat input in any month, spent nontoxic foundry sand, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. "Solid wastes" does not include any material that is an "infectious waste" (see below) or a "hazardous waste" (see below).

Existing R.C. 3734.01 defines "hazardous waste" as any waste or combination of wastes in solid, liquid, semisolid, or contained gaseous form that in the determination of the director, because of its quantity, concentration, or physical or chemical characteristics, may do either of the following: (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or (b) pose a substantial present or potential hazard to human health or safety or to the environment when improperly stored, treated, transported, disposed of, or otherwise managed. "Hazardous waste" includes any substance identified by regulation as hazardous waste under the federal "Resource Conservation and Recovery Act of 1976," as amended, and does not include any substance that is subject to the federal "Atomic Energy Act of 1954," as amended.

Existing R.C. 3734.01 specifies that "infectious wastes" include all of the following substances or categories of substances:

(a) Cultures and stocks of infectious agents and associated biologicals, including, without limitation, specimen cultures, cultures and stocks of infectious agents, wastes from production of biologicals, and discarded live and attenuated vaccines;

(b) Laboratory wastes that were, or are likely to have been, in contact with infectious agents that may present a substantial threat to public health if improperly managed;

(c) Pathological wastes, including, without limitation, human and animal tissues, organs, and body parts, and body fluids and excreta that are contaminated with or are likely to be contaminated with infectious agents, removed or obtained during surgery or autopsy or for diagnostic evaluation, provided that, with regard to pathological wastes from animals, the animals have or are likely to have been exposed to a zoonotic or infectious agent;

(d) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents. Such waste materials from the rooms of humans do not include any wastes of patients who have been placed on blood and body fluid precautions under the universal precaution system established by the

centers for disease control in the public health service of the United States department of health and human services, except to the extent specific wastes generated under the universal precautions system have been identified as infectious wastes by rules adopted under R.C. 3734.01(R)(8).

(e) Human and animal blood specimens and blood products that are being disposed of, provided that, with regard to blood specimens and blood products from animals, the animals were or are likely to have been exposed to a zoonotic or infectious agent. "Blood products" does not include patient care waste such as bandages or disposable gowns that are lightly soiled with blood or other body fluids unless those wastes are soiled to the extent that the generator of the wastes determines that they should be managed as infectious wastes.

(f) Contaminated carcasses, body parts, and bedding of animals that were intentionally exposed to infectious agents from zoonotic or human diseases during research, production of biologicals, or testing of pharmaceuticals, and carcasses and bedding of animals otherwise infected by zoonotic or infectious agents that may present a substantial threat to public health if improperly managed;

(g) Sharp wastes used in the treatment, diagnosis, or inoculation of human beings or animals or that have, or are likely to have, come in contact with infectious agents in medical, research, or industrial laboratories, including, without limitation, hypodermic needles and syringes, scalpel blades, and glass articles that have been broken;

(h) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that the Public Health Council, by rules adopted in accordance with R.C. Chapter 119., identifies as infectious wastes after determining that the wastes present a substantial threat to human health when improperly managed because they are contaminated with, or are likely to be contaminated with, infectious agents.

HISTORY

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