



**Sub. S.B. 209**

127th General Assembly  
(As Passed by the General Assembly)

**Sens. Carey, Cates, Kearney, Gardner, Faber, D. Miller, Roberts, Goodman, Harris, Padgett, Stivers**

**Reps. Hottinger, Skindell, Bacon, Bolon, Boyd, Brown, Budish, Chandler, Driehaus, Flowers, Garrison, Hite, Jones, Patton, Schlichter, Sears, D. Stewart, Strahorn, Beatty, Collier, Distel, Dodd, Dyer, Evans, Fende, Fessler, Gibbs, Goyal, J. Hagan, R. Hagan, Harwood, Hughes, Koziura, Letson, J. McGregor, Okey, J. Otterman, Schindel, Setzer, Stebelton, J. Stewart, Szollosi, Uecker, Wachtmann, Yates, Yuko, Zehringer**

**Effective date:** \*

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**ACT SUMMARY**

- Directs that a specified amount of OVI fines be credited to the State Public Defender for county indigent criminal defense reimbursement.
- Establishes registration reciprocity for snowmobiles, off-highway motorcycles, and all-purpose vehicles.
- Requires the Chief of the Division of Wildlife in the Department of Natural Resources to issue permits to allow persons with mobility impairments to hunt in public wildlife areas using electric-powered all-purpose vehicles or motor vehicles.
- In order to permit such hunting by vehicle, makes modifications to criminal law provisions prohibiting the discharge of a firearm from a motor vehicle and the transport of a firearm in a motor vehicle.
- Makes an appropriation to the Ohio Public Defender Commission and to the Tobacco Use Prevention and Control Foundation.

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\* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

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## CONTENT AND OPERATION

### County indigent criminal defense reimbursement

(R.C. 120.08 and 4511.19)

The act creates the Indigent Defense Support Fund in the state treasury. It also increases the various fines that may be imposed for operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them or operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance (herein referred to as "OVI").<sup>1</sup> A specified amount of the fine money is to be deposited into the Indigent Defense Support Fund and used by the State Public Defender for the purpose of reimbursing county governments for expenses incurred in operating county public defender systems, joint county public defender systems, and county appointed counsel systems pursuant to ongoing law.<sup>2</sup> Disbursements from the Fund to county governments are to be made in each state fiscal year and must be allocated proportionately so that each county receives an equal percentage of its total cost for operating its system.

The following chart summarizes the categories of OVI violations, sets forth the range of fines that could be imposed under prior law, and the range that may be imposed under the act. The chart also specifies the amount of the fine that must be transmitted to the Treasurer of State for deposit into the Indigent Defense Support Fund.

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<sup>1</sup> A "vehicle" for purposes of the county indigent criminal defense reimbursement provisions of this analysis includes: (1) every device, including a moped (motorized bicycle), in, upon, or by which any person or property may be transported or drawn upon a highway (except "vehicle" does not include motorized wheelchairs, electric personal assistive mobility devices, or any device, other than a bicycle, that is moved by human power), (2) a car, other than a railroad train, for transporting persons or property, operated on rails principally within a street or highway (i.e., a streetcar), and (3) every car that collects its power from overhead electric trolley wires and that is not operated on rails or tracks (i.e., a trackless trolley).

<sup>2</sup> See R.C. 120.18, 120.28, and 120.33.

CATEGORY OF VIOLATION	RANGE OF FINES UNDER PRIOR LAW	RANGE OF FINES UNDER THE ACT	AMOUNT DEPOSITED INTO THE INDIGENT DEFENSE SUPPORT FUND
<p>Operating a vehicle (1) under the influence of alcohol, a drug of abuse, or a combination or (2) while under the influence of a listed controlled substance or metabolite of a controlled substance ("OVI violation").</p> <p><i>R.C. 4511.19(G)(1)(a)(iii) and (5)(e)</i></p>	\$250 to \$1,000	\$325 to \$1,075	\$75
<p>The offender, within 6 years of the OVI violation, previously has been convicted of or pleaded guilty to the same or an equivalent offense.</p> <p><i>R.C. 4511.19(G)(1)(b)(iii) and (5)(e)</i></p>	\$350 to \$1,500	\$475 to \$1,625	\$125
<p>The offender, within 6 years of the OVI violation, previously has been convicted of or pleaded guilty to two of the same or equivalent offenses.</p> <p><i>R.C. 4511.19(G)(1)(c)(iii) and (5)(e)</i></p>	\$550 to \$2,500	\$800 to \$2,750	\$250
<p>The offender, within 6 years of the OVI violation, previously has been convicted of or pleaded guilty to three or four of the same or equivalent offenses <b>OR</b> the offender, within 20</p>	\$800 to \$10,000	\$1,300 to \$10,500	\$500



CATEGORY OF VIOLATION	RANGE OF FINES UNDER PRIOR LAW	RANGE OF FINES UNDER THE ACT	AMOUNT DEPOSITED INTO THE INDIGENT DEFENSE SUPPORT FUND
years of the OVI violation, previously has been convicted of or pleaded guilty to five or more violations of that nature. <i>R.C. 4511.19(G)(1)(d)(iii) and (5)(e)</i>			
The offender previously has been convicted of or pleaded guilty to an OVI violation that was a felony, regardless of when the violation and the conviction or guilty plea occurred. <i>R.C. 4511.19(G)(1)(e)(iii) and (5)(e)</i>	\$800 to \$10,000	\$1,300 to \$10,500	\$500

The act also makes an appropriation of \$3,700,000 from the newly created fund to the Ohio Public Defender Commission in both fiscal year 2008 and 2009 (Sections 3 and 5).

**Registration reciprocity for all-purpose and other special vehicles**

(R.C. 4519.02 and 4519.09)

Under prior law, every nonresident owner or operator of a snowmobile, off-highway motorcycle, or all-purpose vehicle was required to obtain a \$5 operating permit valid for up to 15 days in order to operate the vehicle in Ohio. (Registration reciprocity for nonresidents had been eliminated by Am. Sub. H.B. 66 of the 126th General Assembly, the main operating budget bill for the FY 2006-2007 biennium.)

The act re-establishes registration reciprocity for a nonresident to operate a snowmobile, off-highway motorcycle, or all-purpose vehicle in Ohio if the person lives in a state that has a registration requirement for those vehicles that is similar



to Ohio's registration law and the vehicle is properly registered under that state's law. If the nonresident owner or operator of the vehicle lives in a state that does *not* have a registration requirement similar to Ohio's, the person must obtain a \$5, 15-day temporary operating permit to operate the vehicle in Ohio.

### **Hunting by vehicle by persons with mobility impairments**

The act requires the Chief of the Division of Wildlife in the Department of Natural Resources to issue permits to allow persons with mobility impairments to hunt in public wildlife areas using electric-powered all-purpose vehicles or motor vehicles. The act also makes modifications to criminal law provisions in order to permit hunting by vehicle.

### **Electric-powered all-purpose vehicle and motor vehicle hunting permits**

(R.C. 1531.01, 1533.01, and 1533.103)

The act requires the Chief to adopt rules in accordance with Ohio's Administrative Procedure Act (R.C. Chapter 119.) necessary to administer the issuance of permits for the use of electric-powered all-purpose vehicles (EPAPVs) or motor vehicles by persons with mobility impairments to hunt wild quadrupeds or game birds in public wildlife areas. The act defines "electric-powered all-purpose vehicle" as any battery-powered self-propelled electric vehicle that is designed primarily for cross-country travel on land, water, or land and water and that is steered by wheels, caterpillar treads, or a combination of wheels and caterpillar treads and includes vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all-season vehicles, mini-bikes, and trail bikes.<sup>3</sup>

The rules must establish eligibility requirements, an application procedure, the duration of a permit, identification and designation of public wildlife areas in

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<sup>3</sup> The act states that "electric-powered all-purpose vehicle" does not include a utility vehicle that is a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities. The act also excludes from the definition of "electric-powered all-purpose vehicle" any vehicle that is principally used in playing golf, any motor vehicle or aircraft that is required to be registered under the motor vehicle licensure law or aviation law, motorized bicycles, road rollers, traction engines, power shovels, power cranes, other equipment used in construction work and not designed for or employed in general highway transportation, well-drilling machinery, ditch-digging machinery, various types of farm machinery, and certain trailers that are designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina. (R.C. 1531.01(CCC).)

which EPAPVs or motor vehicles may be used by permit holders, and any other procedures and requirements governing the permits that the Chief determines are necessary. No fee may be charged for the issuance of a permit under the act. The act does not eliminate the requirement to obtain a separate hunting license in order to hunt (*see* R.C. 1533.10).

**Modifications to criminal law provisions regarding the discharge and transportation of firearms**

(R.C. 2923.16)

**Discharging firearms prohibition.** Ongoing law prohibits knowingly discharging a firearm while in or on a motor vehicle.<sup>4</sup> The prohibition, however, is inapplicable in certain situations. The act expands those situations, as follows.

Under the act, the prohibition does not apply to a person if all of the following apply:

- (1) The person possesses a valid permit issued in accordance with the act;
- (2) The person discharges a firearm at a wild quadruped or game bird during the open hunting season for that wild quadruped or game bird;
- (3) The person discharges the firearm from a stationary EPAPV or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, provided that the road is identified by an EPAPV sign;
- (4) The person does not discharge the firearm (a) while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, (b) in the direction of a street, highway, or other property that is used by the public for vehicular traffic or parking, (c) at or into an occupied structure that is a permanent or temporary habitation, or (d) in the commission of any violation of law, including a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.

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<sup>4</sup> For purposes of the criminal law provisions of the act only, "motor vehicle" means every vehicle propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires, except motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina.

**Transporting firearms prohibition.** Ongoing law also prohibits knowingly transporting or having a loaded firearm in a motor vehicle in such a manner that the firearm is accessible to the motor vehicle operator or any passenger without leaving the vehicle and knowingly transporting or having a firearm in a motor vehicle unless it is unloaded and is carried in a certain manner, such as keeping the firearm in plain sight. The act provides that these prohibitions do not apply to a person if all of the following apply:

- (1) The person possesses a valid permit issued in accordance with the act;
- (2) The person is on or in an EPAPV or motor vehicle during the open hunting season for a wild quadruped or game bird;
- (3) The person is on or in an EPAPV or motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, provided that the road is identified by an EPAPV sign.

**Tobacco Use Prevention and Control Foundation**

(Sections 4 and 5)

The act makes an appropriation of \$1,990,790 to the Tobacco Use Prevention and Control Foundation in fiscal year 2009 for operating expenses.

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**HISTORY**

ACTION	DATE
Introduced	08-23-07
Reported, S. Finance & Financial Institutions	10-24-07
Passed Senate (32-0)	10-30-07
Reported, H. Finance & Appropriations	02-21-08
Passed House (94-0)	03-11-08
Senate concurred in House amendments (33-0)	03-12-08

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