

AN ACT

To amend sections 2903.07 and 4511.196 of the Revised Code to provide that a judge may impose a pretrial suspension of the driver's or commercial driver's license of a person who is charged with the offense of aggravated vehicular homicide, vehicular homicide that is a felony, or aggravated vehicular assault if the judge determines that the person's continued driving will be a threat to public safety, and to enhance the penalty for vehicular homicide if the offender was under license suspension or revocation at the time of the offense.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2903.07 and 4511.196 of the Revised Code be amended to read as follows:

Sec. 2903.07. (A) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall negligently cause the death of another or the unlawful termination of another's pregnancy.

(B) Whoever violates this section is guilty of vehicular homicide, a misdemeanor of the first degree. If the offender previously has been convicted of an offense under this section, section 2903.06 or 2903.08 of the Revised Code, or section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, or if at the time of the commission of the offense the offender's driver's or commercial driver's license or permit or nonresident operating privilege was suspended or revoked pursuant to any section of the Revised Code, vehicular homicide is a felony of the fourth degree.

If the jury or judge as trier of fact finds that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, at the time of the commission of the offense, then the offender's driver's or commercial driver's license or permit or nonresident operating ~~privileges~~

privilege shall be permanently revoked pursuant to section 4507.16 of the Revised Code.

When the trier of fact determines whether the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, the concentration of alcohol in the offender's blood, breath, or urine as shown by a chemical test taken pursuant to section 1547.111 or 4511.191 of the Revised Code may be considered as competent evidence, and the offender shall be presumed to have been under the influence of alcohol if there was at the time the bodily substance was withdrawn for the chemical test a concentration of ten-hundredths of one per cent or more by weight of alcohol in the offender's blood, ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the offender's breath, or fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the offender's urine.

(C) If the offender previously has been convicted of or pleaded guilty to a violation of this section, section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, section 1547.11, 2903.06, 2903.08, 4511.19, or 4511.192 of the Revised Code, division (B) or (D) of section 4507.02 of the Revised Code, section 4507.38 or 4507.39 of the Revised Code as those sections existed prior to September 24, 1986, a municipal ordinance that is substantially similar to this section, section 2903.08, 4511.19, or 4511.192 of the Revised Code, a municipal ordinance that is substantially similar to section 4507.38 or 4507.39 of the Revised Code as those sections existed prior to September 24, 1986, or a municipal ordinance that is substantially similar to section 2903.04 of the Revised Code in a case in which the offender would have been subject to the sanctions described in division (D) of that section had the offender been convicted of a violation of that section, if the offender has accumulated twelve points pursuant to section 4507.021 of the Revised Code within one year of the offense, or if in the commission of the offense the offender was driving under suspension or operating a motor vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, the offender shall be sentenced to a mandatory prison term and shall not be eligible for a sentence to a community control sanction, pursuant to section 2929.13 of the Revised Code, for judicial release pursuant to section 2929.20 of the Revised Code, or for a reduction of a stated prison term or a release pursuant to section 2967.193 of the Revised Code or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code.

(D) As used in this section, "mandatory prison term" and "community

control sanction" have the same meanings as in section 2929.01 of the Revised Code.

Sec. 4511.196. (A) If a person is arrested for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine and regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (E) or (F) of section 4511.191 of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person.

(B)(1) If a person is arrested as described in division (A) of this section, if the person's driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under division (E) or (F) of section 4511.191 of the Revised Code in relation to that arrest, if the person appeals the suspension in accordance with division (H)(1) of that section, and if the judge, magistrate, or mayor terminates the suspension in accordance with division (H)(2) of that section, the judge, magistrate, or mayor may impose a new suspension of the person's license, permit, or nonresident operating privilege, notwithstanding the termination of the suspension imposed under division (E) or (F) of section 4511.191 of the Revised Code, if the judge, magistrate, or mayor determines that the person's continued driving will be a threat to public safety.

(2) If a person is arrested as described in division (A) of this section and if the person's driver's or commercial driver's license or permit or nonresident operating privilege has not been suspended under division (E) or (F) of section 4511.191 of the Revised Code in relation to that arrest, the judge, magistrate, or mayor may impose a suspension of the person's license, permit, or nonresident operating privilege if the judge, ~~referee~~ magistrate, or mayor determines that the person's continued driving will be a threat to public safety.

(C) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under division (B)(1) or (2) of this section shall continue until the complaint on the charge resulting from the arrest is adjudicated on the merits. A court that imposes a suspension under division (B)(2) of this section shall send the person's driver's license or permit to the registrar of motor vehicles. If the court possesses the driver's or commercial driver's license or permit of a person in the category described in division (B)(2) of this section and the court does not impose a suspension under division (B)(2) of this section, the court shall return the license or

permit to the person if the license or permit has not otherwise been suspended or revoked.

Any time during which the person serves a suspension of the person's driver's or commercial driver's license or permit or nonresident operating privilege that is imposed pursuant to division (B)(1) or (2) of this section shall be credited against any judicial suspension of the person's license, permit, or nonresident operating privilege that is imposed pursuant to division (B) of section 4507.16 of the Revised Code.

(D) If a person is arrested and charged with a violation of section 2903.06 or 2903.08 of the Revised Code or a violation of section 2903.07 of the Revised Code that is a felony offense, the judge at the person's initial appearance, preliminary hearing, or arraignment may suspend the person's driver's or commercial driver's license or permit or nonresident operating privilege if the judge determines at any of those proceedings that the person's continued driving will be a threat to public safety.

The suspension that may be imposed pursuant to this division shall continue until the indictment or information alleging the violation specified in this division is adjudicated on the merits. A court that imposes a suspension under this division shall send the person's driver's or commercial driver's license or permit to the registrar.

SECTION 2. That existing sections 2903.07 and 4511.196 of the Revised Code are hereby repealed.

SECTION 3. Section 2903.07 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 239 and Am. Sub. S.B. 269 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

H. B. No. 61

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____