

**As Reported by the House Infrastructure, Homeland Security and
Veterans Affairs Committee**

**127th General Assembly
Regular Session
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Sub. H. B. No. 51

Representative Evans

**Cosponsors: Representatives McGregor, J., Combs, Dodd, Okey, Fessler,
Fende**

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A B I L L

To amend sections 2743.02 and 2744.01 and to enact 1
section 4510.121 of the Revised Code to permit a 2
person who is issued a ticket for operating a 3
motor vehicle other than a commercial motor 4
vehicle with an expired driver's or commercial 5
driver's license to be issued a seven-day field 6
driving permit. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2743.02 and 2744.01 be amended and 8
section 4510.121 of the Revised Code be enacted to read as 9
follows: 10

Sec. 2743.02. (A)(1) The state hereby waives its immunity 11
from liability, except as provided for the office of the state 12
fire marshal in division (G)(1) of section 9.60 and division (B) 13
of section 3737.221 of the Revised Code and except as provided in 14
division (I) of this section and subject to division (H) of this 15
section, and consents to be sued, and have its liability 16
determined, in the court of claims created in this chapter in 17

accordance with the same rules of law applicable to suits between 18
private parties, except that the determination of liability is 19
subject to the limitations set forth in this chapter and, in the 20
case of state universities or colleges, in section 3345.40 of the 21
Revised Code, and except as provided in division (A)(2) or (3) of 22
this section. To the extent that the state has previously 23
consented to be sued, this chapter has no applicability. 24

Except in the case of a civil action filed by the state, 25
filing a civil action in the court of claims results in a complete 26
waiver of any cause of action, based on the same act or omission, 27
which the filing party has against any officer or employee, as 28
defined in section 109.36 of the Revised Code. The waiver shall be 29
void if the court determines that the act or omission was 30
manifestly outside the scope of the officer's or employee's office 31
or employment or that the officer or employee acted with malicious 32
purpose, in bad faith, or in a wanton or reckless manner. 33

(2) If a claimant proves in the court of claims that an 34
officer or employee, as defined in section 109.36 of the Revised 35
Code, would have personal liability for the officer's or 36
employee's acts or omissions but for the fact that the officer or 37
employee has personal immunity under section 9.86 of the Revised 38
Code, the state shall be held liable in the court of claims in any 39
action that is timely filed pursuant to section 2743.16 of the 40
Revised Code and that is based upon the acts or omissions. 41

(3)(a) Except as provided in division (A)(3)(b) of this 42
section, the state is immune from liability in any civil action or 43
proceeding involving the performance or nonperformance of a public 44
duty, including the performance or nonperformance of a public duty 45
that is owed by the state in relation to any action of an 46
individual who is committed to the custody of the state. 47

(b) The state immunity provided in division (A)(3)(a) of this 48
section does not apply to any action of the state under 49

circumstances in which a special relationship can be established 50
between the state and an injured party. A special relationship 51
under this division is demonstrated if all of the following 52
elements exist: 53

(i) An assumption by the state, by means of promises or 54
actions, of an affirmative duty to act on behalf of the party who 55
was allegedly injured; 56

(ii) Knowledge on the part of the state's agents that 57
inaction of the state could lead to harm; 58

(iii) Some form of direct contact between the state's agents 59
and the injured party; 60

(iv) The injured party's justifiable reliance on the state's 61
affirmative undertaking. 62

(B) The state hereby waives the immunity from liability of 63
all hospitals owned or operated by one or more political 64
subdivisions and consents for them to be sued, and to have their 65
liability determined, in the court of common pleas, in accordance 66
with the same rules of law applicable to suits between private 67
parties, subject to the limitations set forth in this chapter. 68
This division is also applicable to hospitals owned or operated by 69
political subdivisions which have been determined by the supreme 70
court to be subject to suit prior to July 28, 1975. 71

(C) Any hospital, as defined in section 2305.113 of the 72
Revised Code, may purchase liability insurance covering its 73
operations and activities and its agents, employees, nurses, 74
interns, residents, staff, and members of the governing board and 75
committees, and, whether or not such insurance is purchased, may, 76
to such extent as its governing board considers appropriate, 77
indemnify or agree to indemnify and hold harmless any such person 78
against expense, including attorney's fees, damage, loss, or other 79
liability arising out of, or claimed to have arisen out of, the 80

death, disease, or injury of any person as a result of the 81
negligence, malpractice, or other action or inaction of the 82
indemnified person while acting within the scope of the 83
indemnified person's duties or engaged in activities at the 84
request or direction, or for the benefit, of the hospital. Any 85
hospital electing to indemnify such persons, or to agree to so 86
indemnify, shall reserve such funds as are necessary, in the 87
exercise of sound and prudent actuarial judgment, to cover the 88
potential expense, fees, damage, loss, or other liability. The 89
superintendent of insurance may recommend, or, if such hospital 90
requests the superintendent to do so, the superintendent shall 91
recommend, a specific amount for any period that, in the 92
superintendent's opinion, represents such a judgment. This 93
authority is in addition to any authorization otherwise provided 94
or permitted by law. 95

(D) Recoveries against the state shall be reduced by the 96
aggregate of insurance proceeds, disability award, or other 97
collateral recovery received by the claimant. This division does 98
not apply to civil actions in the court of claims against a state 99
university or college under the circumstances described in section 100
3345.40 of the Revised Code. The collateral benefits provisions of 101
division (B)(2) of that section apply under those circumstances. 102

(E) The only defendant in original actions in the court of 103
claims is the state. The state may file a third-party complaint or 104
counterclaim in any civil action, except a civil action for two 105
thousand five hundred dollars or less, that is filed in the court 106
of claims. 107

(F) A civil action against an officer or employee, as defined 108
in section 109.36 of the Revised Code, that alleges that the 109
officer's or employee's conduct was manifestly outside the scope 110
of the officer's or employee's employment or official 111
responsibilities, or that the officer or employee acted with 112

malicious purpose, in bad faith, or in a wanton or reckless manner 113
shall first be filed against the state in the court of claims, 114
which has exclusive, original jurisdiction to determine, 115
initially, whether the officer or employee is entitled to personal 116
immunity under section 9.86 of the Revised Code and whether the 117
courts of common pleas have jurisdiction over the civil action. 118
The officer or employee may participate in the immunity 119
determination proceeding before the court of claims to determine 120
whether the officer or employee is entitled to personal immunity 121
under section 9.86 of the Revised Code. 122

The filing of a claim against an officer or employee under 123
this division tolls the running of the applicable statute of 124
limitations until the court of claims determines whether the 125
officer or employee is entitled to personal immunity under section 126
9.86 of the Revised Code. 127

(G) Whenever a claim lies against an officer or employee who 128
is a member of the Ohio national guard, and the officer or 129
employee was, at the time of the act or omission complained of, 130
subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 131
U.S.C. 2671, et seq., then the Federal Tort Claims Act is the 132
exclusive remedy of the claimant and the state has no liability 133
under this section. 134

(H) If an inmate of a state correctional institution has a 135
claim against the state for the loss of or damage to property and 136
the amount claimed does not exceed three hundred dollars, before 137
commencing an action against the state in the court of claims, the 138
inmate shall file a claim for the loss or damage under the rules 139
adopted by the director of rehabilitation and correction pursuant 140
to this division. The inmate shall file the claim within the time 141
allowed for commencement of a civil action under section 2743.16 142
of the Revised Code. If the state admits or compromises the claim, 143
the director shall make payment from a fund designated by the 144

director for that purpose. If the state denies the claim or does 145
not compromise the claim at least sixty days prior to expiration 146
of the time allowed for commencement of a civil action based upon 147
the loss or damage under section 2743.16 of the Revised Code, the 148
inmate may commence an action in the court of claims under this 149
chapter to recover damages for the loss or damage. 150

The director of rehabilitation and correction shall adopt 151
rules pursuant to Chapter 119. of the Revised Code to implement 152
this division. 153

(I) The state is immune from liability in any civil action or 154
proceeding arising from any incident or set of facts or 155
circumstances that involve a person to whom a state highway patrol 156
trooper has issued a seven-day field driving permit under section 157
4510.121 of the Revised Code and that occurs subsequent to such 158
issuance. 159

Sec. 2744.01. As used in this chapter: 160

(A) "Emergency call" means a call to duty, including, but not 161
limited to, communications from citizens, police dispatches, and 162
personal observations by peace officers of inherently dangerous 163
situations that demand an immediate response on the part of a 164
peace officer. 165

(B) "Employee" means an officer, agent, employee, or servant, 166
whether or not compensated or full-time or part-time, who is 167
authorized to act and is acting within the scope of the officer's, 168
agent's, employee's, or servant's employment for a political 169
subdivision. "Employee" does not include an independent contractor 170
and does not include any individual engaged by a school district 171
pursuant to section 3319.301 of the Revised Code. "Employee" 172
includes any elected or appointed official of a political 173
subdivision. "Employee" also includes a person who has been 174
convicted of or pleaded guilty to a criminal offense and who has 175

been sentenced to perform community service work in a political 176
subdivision whether pursuant to section 2951.02 of the Revised 177
Code or otherwise, and a child who is found to be a delinquent 178
child and who is ordered by a juvenile court pursuant to section 179
2152.19 or 2152.20 of the Revised Code to perform community 180
service or community work in a political subdivision. 181

(C)(1) "Governmental function" means a function of a 182
political subdivision that is specified in division (C)(2) of this 183
section or that satisfies any of the following: 184

(a) A function that is imposed upon the state as an 185
obligation of sovereignty and that is performed by a political 186
subdivision voluntarily or pursuant to legislative requirement; 187

(b) A function that is for the common good of all citizens of 188
the state; 189

(c) A function that promotes or preserves the public peace, 190
health, safety, or welfare; that involves activities that are not 191
engaged in or not customarily engaged in by nongovernmental 192
persons; and that is not specified in division (G)(2) of this 193
section as a proprietary function. 194

(2) A "governmental function" includes, but is not limited 195
to, the following: 196

(a) The provision or nonprovision of police, fire, emergency 197
medical, ambulance, and rescue services or protection; 198

(b) The power to preserve the peace; to prevent and suppress 199
riots, disturbances, and disorderly assemblages; to prevent, 200
mitigate, and clean up releases of oil and hazardous and extremely 201
hazardous substances as defined in section 3750.01 of the Revised 202
Code; and to protect persons and property; 203

(c) The provision of a system of public education; 204

(d) The provision of a free public library system; 205

(e) The regulation of the use of, and the maintenance and	206
repair of, roads, highways, streets, avenues, alleys, sidewalks,	207
bridges, aqueducts, viaducts, and public grounds;	208
(f) Judicial, quasi-judicial, prosecutorial, legislative, and	209
quasi-legislative functions;	210
(g) The construction, reconstruction, repair, renovation,	211
maintenance, and operation of buildings that are used in	212
connection with the performance of a governmental function,	213
including, but not limited to, office buildings and courthouses;	214
(h) The design, construction, reconstruction, renovation,	215
repair, maintenance, and operation of jails, places of juvenile	216
detention, workhouses, or any other detention facility, as defined	217
in section 2921.01 of the Revised Code;	218
(i) The enforcement or nonperformance of any law;	219
(j) The regulation of traffic, and the erection or	220
nonerection of traffic signs, signals, or control devices;	221
(k) The collection and disposal of solid wastes, as defined	222
in section 3734.01 of the Revised Code, including, but not limited	223
to, the operation of solid waste disposal facilities, as	224
"facilities" is defined in that section, and the collection and	225
management of hazardous waste generated by households. As used in	226
division (C)(2)(k) of this section, "hazardous waste generated by	227
households" means solid waste originally generated by individual	228
households that is listed specifically as hazardous waste in or	229
exhibits one or more characteristics of hazardous waste as defined	230
by rules adopted under section 3734.12 of the Revised Code, but	231
that is excluded from regulation as a hazardous waste by those	232
rules.	233
(l) The provision or nonprovision, planning or design,	234
construction, or reconstruction of a public improvement,	235
including, but not limited to, a sewer system;	236

(m) The operation of a job and family services department or agency, including, but not limited to, the provision of assistance to aged and infirm persons and to persons who are indigent;	237 238 239
(n) The operation of a health board, department, or agency, including, but not limited to, any statutorily required or permissive program for the provision of immunizations or other inoculations to all or some members of the public, provided that a "governmental function" does not include the supply, manufacture, distribution, or development of any drug or vaccine employed in any such immunization or inoculation program by any supplier, manufacturer, distributor, or developer of the drug or vaccine;	240 241 242 243 244 245 246 247
(o) The operation of mental health facilities, mental retardation or developmental disabilities facilities, alcohol treatment and control centers, and children's homes or agencies;	248 249 250
(p) The provision or nonprovision of inspection services of all types, including, but not limited to, inspections in connection with building, zoning, sanitation, fire, plumbing, and electrical codes, and the taking of actions in connection with those types of codes, including, but not limited to, the approval of plans for the construction of buildings or structures and the issuance or revocation of building permits or stop work orders in connection with buildings or structures;	251 252 253 254 255 256 257 258
(q) Urban renewal projects and the elimination of slum conditions;	259 260
(r) Flood control measures;	261
(s) The design, construction, reconstruction, renovation, operation, care, repair, and maintenance of a township cemetery;	262 263
(t) The issuance of revenue obligations under section 140.06 of the Revised Code;	264 265
(u) The design, construction, reconstruction, renovation,	266

repair, maintenance, and operation of any school athletic	267
facility, school auditorium, or gymnasium or any recreational area	268
or facility, including, but not limited to, any of the following:	269
(i) A park, playground, or playfield;	270
(ii) An indoor recreational facility;	271
(iii) A zoo or zoological park;	272
(iv) A bath, swimming pool, pond, water park, wading pool,	273
wave pool, water slide, or other type of aquatic facility;	274
(v) A golf course;	275
(vi) A bicycle motocross facility or other type of	276
recreational area or facility in which bicycling, skating, skate	277
boarding, or scooter riding is engaged;	278
(vii) A rope course or climbing walls;	279
(viii) An all-purpose vehicle facility in which all-purpose	280
vehicles, as defined in section 4519.01 of the Revised Code, are	281
contained, maintained, or operated for recreational activities.	282
(v) The provision of public defender services by a county or	283
joint county public defender's office pursuant to Chapter 120. of	284
the Revised Code;	285
(w)(i) At any time before regulations prescribed pursuant to	286
49 U.S.C.A 20153 become effective, the designation, establishment,	287
design, construction, implementation, operation, repair, or	288
maintenance of a public road rail crossing in a zone within a	289
municipal corporation in which, by ordinance, the legislative	290
authority of the municipal corporation regulates the sounding of	291
locomotive horns, whistles, or bells;	292
(ii) On and after the effective date of regulations	293
prescribed pursuant to 49 U.S.C.A. 20153, the designation,	294
establishment, design, construction, implementation, operation,	295
repair, or maintenance of a public road rail crossing in such a	296

zone or of a supplementary safety measure, as defined in 49 297
U.S.C.A 20153, at or for a public road rail crossing, if and to 298
the extent that the public road rail crossing is excepted, 299
pursuant to subsection (c) of that section, from the requirement 300
of the regulations prescribed under subsection (b) of that 301
section. 302

(x) Issuance of a seven-day field driving permit under 303
section 4510.121 of the Revised Code by a law enforcement officer 304
employed by a law enforcement agency of a political subdivision; 305

(y) A function that the general assembly mandates a political 306
subdivision to perform. 307

(D) "Law" means any provision of the constitution, statutes, 308
or rules of the United States or of this state; provisions of 309
charters, ordinances, resolutions, and rules of political 310
subdivisions; and written policies adopted by boards of education. 311
When used in connection with the "common law," this definition 312
does not apply. 313

(E) "Motor vehicle" has the same meaning as in section 314
4511.01 of the Revised Code. 315

(F) "Political subdivision" or "subdivision" means a 316
municipal corporation, township, county, school district, or other 317
body corporate and politic responsible for governmental activities 318
in a geographic area smaller than that of the state. "Political 319
subdivision" includes, but is not limited to, a county hospital 320
commission appointed under section 339.14 of the Revised Code, 321
board of hospital commissioners appointed for a municipal hospital 322
under section 749.04 of the Revised Code, board of hospital 323
trustees appointed for a municipal hospital under section 749.22 324
of the Revised Code, regional planning commission created pursuant 325
to section 713.21 of the Revised Code, county planning commission 326
created pursuant to section 713.22 of the Revised Code, joint 327

planning council created pursuant to section 713.231 of the Revised Code, interstate regional planning commission created pursuant to section 713.30 of the Revised Code, port authority created pursuant to section 4582.02 or 4582.26 of the Revised Code or in existence on December 16, 1964, regional council established by political subdivisions pursuant to Chapter 167. of the Revised Code, emergency planning district and joint emergency planning district designated under section 3750.03 of the Revised Code, joint emergency medical services district created pursuant to section 307.052 of the Revised Code, fire and ambulance district created pursuant to section 505.375 of the Revised Code, joint interstate emergency planning district established by an agreement entered into under that section, county solid waste management district and joint solid waste management district established under section 343.01 or 343.012 of the Revised Code, community school established under Chapter 3314. of the Revised Code, the county or counties served by a community-based correctional facility and program or district community-based correctional facility and program established and operated under sections 2301.51 to 2301.58 of the Revised Code, a community-based correctional facility and program or district community-based correctional facility and program that is so established and operated, and the facility governing board of a community-based correctional facility and program or district community-based correctional facility and program that is so established and operated.

(G)(1) "Proprietary function" means a function of a political subdivision that is specified in division (G)(2) of this section or that satisfies both of the following:

(a) The function is not one described in division (C)(1)(a) or (b) of this section and is not one specified in division (C)(2) of this section;

(b) The function is one that promotes or preserves the public peace, health, safety, or welfare and that involves activities that are customarily engaged in by nongovernmental persons.

(2) A "proprietary function" includes, but is not limited to, the following:

(a) The operation of a hospital by one or more political subdivisions;

(b) The design, construction, reconstruction, renovation, repair, maintenance, and operation of a public cemetery other than a township cemetery;

(c) The establishment, maintenance, and operation of a utility, including, but not limited to, a light, gas, power, or heat plant, a railroad, a busline or other transit company, an airport, and a municipal corporation water supply system;

(d) The maintenance, destruction, operation, and upkeep of a sewer system;

(e) The operation and control of a public stadium, auditorium, civic or social center, exhibition hall, arts and crafts center, band or orchestra, or off-street parking facility.

(H) "Public roads" means public roads, highways, streets, avenues, alleys, and bridges within a political subdivision. "Public roads" does not include berms, shoulders, rights-of-way, or traffic control devices unless the traffic control devices are mandated by the Ohio manual of uniform traffic control devices.

(I) "State" means the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, colleges and universities, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions.

Sec. 4510.121. (A) If a law enforcement officer issues a 390
person a ticket, citation, or summons for a violation of section 391
4510.12 of the Revised Code because the offender was operating a 392
motor vehicle other than a commercial motor vehicle with a 393
driver's or commercial driver's license issued by this state that 394
was expired and the person's driver's or commercial driver's 395
license otherwise has not been suspended or canceled and therefore 396
but for the fact that the person's driver's or commercial driver's 397
license had expired the person's operation of the motor vehicle 398
would not have been in violation of section 4510.12 of the Revised 399
Code, the law enforcement officer shall issue to the person a 400
seven-day field driving permit. The ticket, citation, or summons 401
that the officer issues to the person shall serve as the person's 402
seven-day field driving permit. The law enforcement officer shall 403
make the necessary markings and notations on the ticket, citation, 404
or summons in order to indicate that it is to serve as a seven-day 405
field driving permit for the person listed on the ticket, 406
citation, or summons. The law enforcement officer shall issue the 407
combination ticket, citation, or summons and seven-day field 408
driving permit to the person if the person has not been arrested, 409
the motor vehicle the person was operating at the time of the 410
violation of section 4510.12 of the Revised Code can be lawfully 411
operated on the public roads and is not a commercial motor 412
vehicle, and the person presents to the law enforcement officer 413
valid proof of financial responsibility in a form described in 414
division (G) of section 4509.101 of the Revised Code. The ticket, 415
citation, or summons shall include all language and spaces 416
necessary in order for it to serve as the person's seven-day field 417
driving permit, including spaces in which the law enforcement 418
officer shall enter the date and time of issuance of the permit 419
and the date and time that the permit expires. 420

(B) A person who is issued a seven-day field driving permit 421

under this section may operate a motor vehicle as follows if the 422
person has the permit in the person's possession: 423

(1) During the three hours immediately following the time of 424
issuance of the permit to enable the person to travel directly to 425
the person's residence; 426

(2) During the seven-day period commencing from the time and 427
date of issuance of the permit and prior to issuance by the 428
registrar or a deputy registrar of a driver's or commercial 429
driver's license to the person, the person may travel directly to 430
and from the person's residence and the person's place of 431
employment, but the person shall not operate a motor vehicle in 432
the course of the person's employment; 433

(3) During the seven-day period commencing from the time and 434
date of issuance of the permit, the person may travel to an office 435
of the registrar or a deputy registrar to obtain a driver's or 436
commercial driver's license. 437

(C) Issuance of a seven-day field driving permit to a person 438
does not invalidate, supersede, or otherwise affect in any manner 439
or to any degree any suspension or cancellation of the person's 440
driver's or commercial driver's license that is in effect at the 441
time of issuance of the permit. A person who is issued a seven-day 442
field driving permit under this section shall be deemed to possess 443
a valid driver's license issued by this state only if the person 444
operates a motor vehicle as specified in division (B) of this 445
section and only if the person's driver's or commercial driver's 446
license otherwise has not been suspended or canceled. 447

(D) No state highway patrol trooper or other law enforcement 448
officer shall be personally liable or subject to any suit, 449
judgment, or claim or damages arising from any incident or set of 450
facts or circumstances that involve a person to whom the trooper 451
or officer issued a seven-day field driving permit under section 452

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Committee

4510.121 of the Revised Code and that occurs subsequent to such 453
issuance. 454

(E) No person shall be issued more than one seven-day field 455
driving permit in any sixty-month period, commencing on the date 456
such a permit is issued. 457

(F) No person who is issued a seven-day field driving permit 458
shall operate a motor vehicle other than as specified in division 459
(B) of this section. 460

(G) If a person who has been issued a seven-day field driving 461
permit under this section submits an application to the registrar 462
or a deputy registrar for a driver's license or commercial 463
driver's license and, on the date of such application, the 464
person's previous driver's or commercial driver's license expired 465
more than forty-eight months prior to the date of the application, 466
the person shall not be issued a driver's or commercial driver's 467
license unless the person pays not only all the applicable fees 468
associated with the issuance of a driver's or commercial driver's 469
license on that date but also all the fees the person would have 470
paid to the registrar or deputy registrar had the person applied 471
for renewal of the person's previous driver's or commercial 472
driver's license on the expiration date of that previous license. 473

(H) Whoever violates division (F) of this section is guilty 474
of a misdemeanor of the first degree. 475

Section 2. That existing sections 2743.02 and 2744.01 of the 476
Revised Code are hereby repealed. 477