

**As Introduced**

**128th General Assembly  
Regular Session  
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**H. B. No. 121**

**Representative Evans**

**Cosponsors: Representatives Huffman, Mecklenborg, Amstutz, Hagan,  
Grossman, Harris, Hackett, Stebelton, Brown, Okey, Balderson, Williams, B.,  
Ujvagi, Domenick**

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



(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.	360 361 362
(2) A "proprietary function" includes, but is not limited to, the following:	363 364
(a) The operation of a hospital by one or more political subdivisions;	365 366
(b) The design, construction, reconstruction, renovation, repair, maintenance, and operation of a public cemetery other than a township cemetery;	367 368 369
(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;	370 371 372 373
(d) The maintenance, destruction, operation, and upkeep of a sewer system;	374 375
(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.	376 377 378
(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.	379 380 381 382 383
(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.	384 385 386 387 388 389

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

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