

As Introduced

**128th General Assembly
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H. B. No. 44

Representatives Hagan, Huffman

**Cosponsors: Representatives Stautberg, Wachtmann, Uecker, Adams, J.,
Grossman, Mecklenborg, Winburn, Harris, Balderson, Jordan, Hackett,
DeBose, Stebelton**

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A B I L L

To amend sections 4509.101 and 4510.04 of the Revised 1
Code and to repeal Section 3 of Am. Sub. S.B. 20 2
of the 120th General Assembly, as subsequently 3
amended, to eliminate the financial responsibility 4
random verification program of the Bureau of Motor 5
Vehicles. 6

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

Section 1. That sections 4509.101 and 4510.04 of the Revised 7
Code be amended to read as follows: 8

Sec. 4509.101. (A)(1) No person shall operate, or permit the 9
operation of, a motor vehicle in this state, unless proof of 10
financial responsibility is maintained continuously throughout the 11
registration period with respect to that vehicle, or, in the case 12
of a driver who is not the owner, with respect to that driver's 13
operation of that vehicle. 14

(2) Whoever violates division (A)(1) of this section shall be 15
subject to the following civil penalties: 16

(a) Subject to divisions (A)(2)(b) and (c) of this section, a class E suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code and impoundment of the person's license. The court may grant limited driving privileges to the person only if the person presents proof of financial responsibility and has complied with division (A)(5) of this section.

(b) If, within five years of the violation, the person's operating privileges are again suspended and the person's license again is impounded for a violation of division (A)(1) of this section, a class C suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code. The court may grant limited driving privileges to the person only if the person presents proof of financial responsibility and has complied with division (A)(5) of this section, and no court may grant limited driving privileges for the first fifteen days of the suspension.

(c) If, within five years of the violation, the person's operating privileges are suspended and the person's license is impounded two or more times for a violation of division (A)(1) of this section, a class B suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code. No court may grant limited driving privileges during the suspension.

(d) In addition to the suspension of an owner's license under division (A)(2)(a), (b), or (c) of this section, the suspension of

the rights of the owner to register the motor vehicle and the 49
impoundment of the owner's certificate of registration and license 50
plates until the owner complies with division (A)(5) of this 51
section. 52

(3) A person to whom this state has issued a certificate of 53
registration for a motor vehicle or a license to operate a motor 54
vehicle or who is determined to have operated any motor vehicle or 55
permitted the operation in this state of a motor vehicle owned by 56
the person shall be required to verify the existence of proof of 57
financial responsibility covering the operation of the motor 58
vehicle or the person's operation of the motor vehicle under ~~any~~ 59
either of the following circumstances: 60

(a) The person or a motor vehicle owned by the person is 61
involved in a traffic accident that requires the filing of an 62
accident report under section 4509.06 of the Revised Code. 63

(b) The person receives a traffic ticket indicating that 64
proof of the maintenance of financial responsibility was not 65
produced upon the request of a peace officer or state highway 66
patrol trooper made in accordance with division (D)(2) of this 67
section. 68

~~(c) Whenever, in accordance with rules adopted by the 69
registrar, the person is randomly selected by the registrar and 70
requested to provide such verification. 71~~

(4) An order of the registrar that suspends and impounds a 72
license or registration, or both, shall state the date on or 73
before which the person is required to surrender the person's 74
license or certificate of registration and license plates. The 75
person is deemed to have surrendered the license or certificate of 76
registration and license plates, in compliance with the order, if 77
the person does either of the following: 78

(a) On or before the date specified in the order, personally 79

delivers the license or certificate of registration and license 80
plates, or causes the delivery of the items, to the registrar; 81

(b) Mails the license or certificate of registration and 82
license plates to the registrar in an envelope or container 83
bearing a postmark showing a date no later than the date specified 84
in the order. 85

(5) Except as provided in division (A)(6) or (L) of this 86
section, the registrar shall not restore any operating privileges 87
or registration rights suspended under this section, return any 88
license, certificate of registration, or license plates impounded 89
under this section, or reissue license plates under section 90
4503.232 of the Revised Code, if the registrar destroyed the 91
impounded license plates under that section, or reissue a license 92
under section 4510.52 of the Revised Code, if the registrar 93
destroyed the suspended license under that section, unless the 94
rights are not subject to suspension or revocation under any other 95
law and unless the person, in addition to complying with all other 96
conditions required by law for reinstatement of the operating 97
privileges or registration rights, complies with all of the 98
following: 99

(a) Pays a financial responsibility reinstatement fee of 100
seventy-five dollars for the first violation of division (A)(1) of 101
this section, two hundred fifty dollars for a second violation of 102
that division, and five hundred dollars for a third or subsequent 103
violation of that division; 104

(b) If the person has not voluntarily surrendered the 105
license, certificate, or license plates in compliance with the 106
order, pays a financial responsibility nonvoluntary compliance fee 107
in an amount, not to exceed fifty dollars, determined by the 108
registrar; 109

(c) Files and continuously maintains proof of financial 110

responsibility under sections 4509.44 to 4509.65 of the Revised Code. 111
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~~(6) If the registrar issues an order under division (A)(2) of this section resulting from the failure of a person to respond to a financial responsibility random verification request under division (A)(3)(c) of this section and the person successfully maintains an affirmative defense to a violation of section 4510.16 of the Revised Code or is determined by the registrar or a deputy registrar to have been in compliance with division (A)(1) of this section at the time of the initial financial responsibility random verification request, the registrar shall do both of the following:~~ 113
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~~(a) Terminate the order of suspension or impoundment;~~ 123

~~(b) Restore the operating privileges and registration rights of the person without payment of the fees established in divisions (A)(5)(a) and (b) of this section and without a requirement to file proof of financial responsibility.~~ 124
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(B)(1) Every party required to file an accident report under section 4509.06 of the Revised Code also shall include with the report a document described in division (G)(1) of this section. 128
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If the registrar determines, within forty-five days after the report is filed, that an operator or owner has violated division (A)(1) of this section, the registrar shall do all of the following: 131
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(a) Order the impoundment, with respect to the motor vehicle involved, required under division (A)(2)(d) of this section, of the certificate of registration and license plates of any owner who has violated division (A)(1) of this section; 135
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(b) Order the suspension required under division (A)(2)(a), (b), or (c) of this section of the license of any operator or owner who has violated division (A)(1) of this section; 139
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(c) Record the name and address of the person whose 142
certificate of registration and license plates have been impounded 143
or are under an order of impoundment, or whose license has been 144
suspended or is under an order of suspension; the serial number of 145
the person's license; the serial numbers of the person's 146
certificate of registration and license plates; and the person's 147
social security account number, if assigned, or, where the motor 148
vehicle is used for hire or principally in connection with any 149
established business, the person's federal taxpayer identification 150
number. The information shall be recorded in such a manner that it 151
becomes a part of the person's permanent record, and assists the 152
registrar in monitoring compliance with the orders of suspension 153
or impoundment. 154

(d) Send written notification to every person to whom the 155
order pertains, at the person's last known address as shown on the 156
records of the bureau. The person, within ten days after the date 157
of the mailing of the notification, shall surrender to the 158
registrar, in a manner set forth in division (A)(4) of this 159
section, any certificate of registration and registration plates 160
under an order of impoundment, or any license under an order of 161
suspension. 162

(2) The registrar shall issue any order under division (B)(1) 163
of this section without a hearing. Any person adversely affected 164
by the order, within ten days after the issuance of the order, may 165
request an administrative hearing before the registrar, who shall 166
provide the person with an opportunity for a hearing in accordance 167
with this paragraph. A request for a hearing does not operate as a 168
suspension of the order. The scope of the hearing shall be limited 169
to whether the person in fact demonstrated to the registrar proof 170
of financial responsibility in accordance with this section. The 171
registrar shall determine the date, time, and place of any 172
hearing, provided that the hearing shall be held, and an order 173

issued or findings made, within thirty days after the registrar 174
receives a request for a hearing. If requested by the person in 175
writing, the registrar may designate as the place of hearing the 176
county seat of the county in which the person resides or a place 177
within fifty miles of the person's residence. The person shall pay 178
the cost of the hearing before the registrar, if the registrar's 179
order of suspension or impoundment is upheld. 180

(C) Any order of suspension or impoundment issued under this 181
section or division (B) of section 4509.37 of the Revised Code may 182
be terminated at any time if the registrar determines upon a 183
showing of proof of financial responsibility that the operator or 184
owner of the motor vehicle was in compliance with division (A)(1) 185
of this section at the time of the traffic offense, motor vehicle 186
inspection, or accident that resulted in the order against the 187
person. A determination may be made without a hearing. This 188
division does not apply unless the person shows good cause for the 189
person's failure to present satisfactory proof of financial 190
responsibility to the registrar prior to the issuance of the 191
order. 192

(D)(1)(a) For the purpose of enforcing this section, every 193
peace officer is deemed an agent of the registrar. 194

~~(a) Except as provided in division (D)(1)(b) of this section,~~ 195
any (b) Any peace officer who, in the performance of the peace 196
officer's duties as authorized by law, becomes aware of a person 197
whose license is under an order of suspension, or whose 198
certificate of registration and license plates are under an order 199
of impoundment, pursuant to this section, may confiscate the 200
license, certificate of registration, and license plates, and 201
return them to the registrar. 202

~~(b) Any peace officer who, in the performance of the peace~~ 203
~~officer's duties as authorized by law, becomes aware of a person~~ 204
~~whose license is under an order of suspension, or whose~~ 205

~~certificate of registration and license plates are under an order 206
of impoundment resulting from failure to respond to a financial 207
responsibility random verification, shall not, for that reason, 208
arrest the owner or operator or seize the vehicle or license 209
plates. Instead, the peace officer shall issue a citation for a 210
violation of section 4510.16 of the Revised Code specifying the 211
circumstances as failure to respond to a financial responsibility 212
random verification. 213~~

(2) A peace officer shall request the owner or operator of a 214
motor vehicle to produce proof of financial responsibility in a 215
manner described in division (G) of this section at the time the 216
peace officer acts to enforce the traffic laws of this state and 217
during motor vehicle inspections conducted pursuant to section 218
4513.02 of the Revised Code. 219

(3) A peace officer shall indicate on every traffic ticket 220
whether the person receiving the traffic ticket produced proof of 221
the maintenance of financial responsibility in response to the 222
officer's request under division (D)(2) of this section. The peace 223
officer shall inform every person who receives a traffic ticket 224
and who has failed to produce proof of the maintenance of 225
financial responsibility that the person must submit proof to the 226
traffic violations bureau with any payment of a fine and costs for 227
the ticketed violation or, if the person is to appear in court for 228
the violation, the person must submit proof to the court. 229

(4)(a) If a person who has failed to produce proof of the 230
maintenance of financial responsibility appears in court for a 231
ticketed violation, the court may permit the defendant to present 232
evidence of proof of financial responsibility to the court at such 233
time and in such manner as the court determines to be necessary or 234
appropriate. In a manner prescribed by the registrar, the clerk of 235
courts shall provide the registrar with the identity of any person 236
who fails to submit proof of the maintenance of financial 237

responsibility pursuant to division (D)(3) of this section. 238

(b) If a person who has failed to produce proof of the 239
maintenance of financial responsibility also fails to submit that 240
proof to the traffic violations bureau with payment of a fine and 241
costs for the ticketed violation, the traffic violations bureau, 242
in a manner prescribed by the registrar, shall notify the 243
registrar of the identity of that person. 244

(5)(a) Upon receiving notice from a clerk of courts or 245
traffic violations bureau pursuant to division (D)(4) of this 246
section, the registrar shall order the suspension of the license 247
of the person required under division (A)(2)(a), (b), or (c) of 248
this section and the impoundment of the person's certificate of 249
registration and license plates required under division (A)(2)(d) 250
of this section, effective thirty days after the date of the 251
mailing of notification. The registrar also shall notify the 252
person that the person must present the registrar with proof of 253
financial responsibility in accordance with this section, 254
surrender to the registrar the person's certificate of 255
registration, license plates, and license, or submit a statement 256
subject to section 2921.13 of the Revised Code that the person did 257
not operate or permit the operation of the motor vehicle at the 258
time of the offense. Notification shall be in writing and shall be 259
sent to the person at the person's last known address as shown on 260
the records of the bureau of motor vehicles. The person, within 261
fifteen days after the date of the mailing of notification, shall 262
present proof of financial responsibility, surrender the 263
certificate of registration, license plates, and license to the 264
registrar in a manner set forth in division (A)(4) of this 265
section, or submit the statement required under this section 266
together with other information the person considers appropriate. 267

If the registrar does not receive proof or the person does 268
not surrender the certificate of registration, license plates, and 269

license, in accordance with this division, the registrar shall 270
permit the order for the suspension of the license of the person 271
and the impoundment of the person's certificate of registration 272
and license plates to take effect. 273

(b) In the case of a person who presents, within the 274
fifteen-day period, documents to show proof of financial 275
responsibility, the registrar shall terminate the order of 276
suspension and the impoundment of the registration and license 277
plates required under division (A)(2)(d) of this section and shall 278
send written notification to the person, at the person's last 279
known address as shown on the records of the bureau. 280

(c) Any person adversely affected by the order of the 281
registrar under division (D)(5)(a) or (b) of this section, within 282
ten days after the issuance of the order, may request an 283
administrative hearing before the registrar, who shall provide the 284
person with an opportunity for a hearing in accordance with this 285
paragraph. A request for a hearing does not operate as a 286
suspension of the order. The scope of the hearing shall be limited 287
to whether, at the time of the hearing, the person presents proof 288
of financial responsibility covering the vehicle and whether the 289
person is eligible for an exemption in accordance with this 290
section or any rule adopted under it. The registrar shall 291
determine the date, time, and place of any hearing; provided, that 292
the hearing shall be held, and an order issued or findings made, 293
within thirty days after the registrar receives a request for a 294
hearing. If requested by the person in writing, the registrar may 295
designate as the place of hearing the county seat of the county in 296
which the person resides or a place within fifty miles of the 297
person's residence. Such person shall pay the cost of the hearing 298
before the registrar, if the registrar's order of suspension or 299
impoundment under division (D)(5)(a) or (b) of this section is 300
upheld. 301

(6) A peace officer may charge an owner or operator of a motor vehicle with a violation of section 4510.16 of the Revised Code when the owner or operator fails to show proof of the maintenance of financial responsibility pursuant to a peace officer's request under division (D)(2) of this section, if a check of the owner or operator's driving record indicates that the owner or operator, at the time of the operation of the motor vehicle, is required to file and maintain proof of financial responsibility under section 4509.45 of the Revised Code for a previous violation of this chapter.

(7) Any forms used by law enforcement agencies in administering this section shall be prescribed, supplied, and paid for by the registrar.

(8) No peace officer, law enforcement agency employing a peace officer, or political subdivision or governmental agency that employs a peace officer shall be liable in a civil action for damages or loss to persons arising out of the performance of any duty required or authorized by this section.

(9) As used in this division and divisions (E) and (G) of this section, "peace officer" has the meaning set forth in section 2935.01 of the Revised Code.

(E) All fees, except court costs, collected under this section shall be paid into the state treasury to the credit of the financial responsibility compliance fund. The financial responsibility compliance fund shall be used exclusively to cover costs incurred by the bureau in the administration of this section and sections 4503.20, 4507.212, and 4509.81 of the Revised Code, and by any law enforcement agency employing any peace officer who returns any license, certificate of registration, and license plates to the registrar pursuant to division (C) of this section, except that the director of budget and management may transfer excess money from the financial responsibility compliance fund to

the state bureau of motor vehicles fund if the registrar 334
determines that the amount of money in the financial 335
responsibility compliance fund exceeds the amount required to 336
cover such costs incurred by the bureau or a law enforcement 337
agency and requests the director to make the transfer. 338

All investment earnings of the financial responsibility 339
compliance fund shall be credited to the fund. 340

(F) Chapter 119. of the Revised Code applies to this section 341
only to the extent that any provision in that chapter is not 342
clearly inconsistent with this section. 343

(G)(1) The registrar, court, traffic violations bureau, or 344
peace officer may require proof of financial responsibility to be 345
demonstrated by use of a standard form prescribed by the 346
registrar. If the use of a standard form is not required, a person 347
may demonstrate proof of financial responsibility under this 348
section by presenting to the traffic violations bureau, court, 349
registrar, or peace officer any of the following documents or a 350
copy of the documents: 351

(a) A financial responsibility identification card as 352
provided in section 4509.103 of the Revised Code; 353

(b) A certificate of proof of financial responsibility on a 354
form provided and approved by the registrar for the filing of an 355
accident report required to be filed under section 4509.06 of the 356
Revised Code; 357

(c) A policy of liability insurance, a declaration page of a 358
policy of liability insurance, or liability bond, if the policy or 359
bond complies with section 4509.20 or sections 4509.49 to 4509.61 360
of the Revised Code; 361

(d) A bond or certification of the issuance of a bond as 362
provided in section 4509.59 of the Revised Code; 363

(e) A certificate of deposit of money or securities as provided in section 4509.62 of the Revised Code;	364 365
(f) A certificate of self-insurance as provided in section 4509.72 of the Revised Code.	366 367
(2) If a person fails to demonstrate proof of financial responsibility in a manner described in division (G)(1) of this section, the person may demonstrate proof of financial responsibility under this section by any other method that the court or the bureau, by reason of circumstances in a particular case, may consider appropriate.	368 369 370 371 372 373
(3) A motor carrier certificated by the interstate commerce commission or by the public utilities commission may demonstrate proof of financial responsibility by providing a statement designating the motor carrier's operating authority and averring that the insurance coverage required by the certificating authority is in full force and effect.	374 375 376 377 378 379
(4)(a) A finding by the registrar or court that a person is covered by proof of financial responsibility in the form of an insurance policy or surety bond is not binding upon the named insurer or surety or any of its officers, employees, agents, or representatives and has no legal effect except for the purpose of administering this section.	380 381 382 383 384 385
(b) The preparation and delivery of a financial responsibility identification card or any other document authorized to be used as proof of financial responsibility under this division does not do any of the following:	386 387 388 389
(i) Create any liability or estoppel against an insurer or surety, or any of its officers, employees, agents, or representatives;	390 391 392
(ii) Constitute an admission of the existence of, or of any liability or coverage under, any policy or bond;	393 394

(iii) Waive any defenses or counterclaims available to an insurer, surety, agent, employee, or representative in an action commenced by an insured or third-party claimant upon a cause of action alleged to have arisen under an insurance policy or surety bond or by reason of the preparation and delivery of a document for use as proof of financial responsibility.

(c) Whenever it is determined by a final judgment in a judicial proceeding that an insurer or surety, which has been named on a document accepted by a court or the registrar as proof of financial responsibility covering the operation of a motor vehicle at the time of an accident or offense, is not liable to pay a judgment for injuries or damages resulting from such operation, the registrar, notwithstanding any previous contrary finding, shall forthwith suspend the operating privileges and registration rights of the person against whom the judgment was rendered as provided in division (A)(2) of this section.

(H) In order for any document described in division (G)(1)(b) of this section to be used for the demonstration of proof of financial responsibility under this section, the document shall state the name of the insured or obligor, the name of the insurer or surety company, and the effective and expiration dates of the financial responsibility, and designate by explicit description or by appropriate reference all motor vehicles covered which may include a reference to fleet insurance coverage.

(I) For purposes of this section, "owner" does not include a licensed motor vehicle leasing dealer as defined in section 4517.01 of the Revised Code, but does include a motor vehicle renting dealer as defined in section 4549.65 of the Revised Code. Nothing in this section or in section 4509.51 of the Revised Code shall be construed to prohibit a motor vehicle renting dealer from entering into a contractual agreement with a person whereby the person renting the motor vehicle agrees to be solely responsible

for maintaining proof of financial responsibility, in accordance 427
with this section, with respect to the operation, maintenance, or 428
use of the motor vehicle during the period of the motor vehicle's 429
rental. 430

(J) The purpose of this section is to require the maintenance 431
of proof of financial responsibility with respect to the operation 432
of motor vehicles on the highways of this state, so as to minimize 433
those situations in which persons are not compensated for injuries 434
and damages sustained in motor vehicle accidents. The general 435
assembly finds that this section contains reasonable civil 436
penalties and procedures for achieving this purpose. 437

(K) Nothing in this section shall be construed to be subject 438
to section 4509.78 of the Revised Code. 439

(L)(1) The registrar may terminate any suspension imposed 440
under this section and not require the owner to comply with 441
divisions (A)(5)(a), (b), and (c) of this section if the registrar 442
with or without a hearing determines that the owner of the vehicle 443
has established by clear and convincing evidence that all of the 444
following apply: 445

(a) The owner customarily maintains proof of financial 446
responsibility. 447

(b) Proof of financial responsibility was not in effect for 448
the vehicle on the date in question for one of the following 449
reasons: 450

(i) The vehicle was inoperable. 451

(ii) The vehicle is operated only seasonally, and the date in 452
question was outside the season of operation. 453

(iii) A person other than the vehicle owner or driver was at 454
fault for the lapse of proof of financial responsibility through 455
no fault of the owner or driver. 456

(iv) The lapse of proof of financial responsibility was 457
caused by excusable neglect under circumstances that are not 458
likely to recur and do not suggest a purpose to evade the 459
requirements of this chapter. 460

(2) The registrar may grant an owner or driver relief for a 461
reason specified in division ~~(L)(1)(b)(i) or (ii)~~ of this section 462
~~whenever the owner or driver is randomly selected to verify the~~ 463
~~existence of proof of financial responsibility for such a vehicle.~~ 464
~~However, the registrar may grant an owner or driver relief for a~~ 465
~~reason specified in division~~ (L)(1)(b)(iii) or (iv) of this 466
section only if the owner or driver has not previously been 467
granted relief under division (L)(1)(b)(iii) or (iv) of this 468
section. 469

(M) The registrar shall adopt rules in accordance with 470
Chapter 119. of the Revised Code that are necessary to administer 471
and enforce this section. The rules shall include procedures for 472
the surrender of license plates upon failure to maintain proof of 473
financial responsibility and provisions relating to reinstatement 474
of registration rights, acceptable forms of proof of financial 475
responsibility, and verification of the existence of financial 476
responsibility during the period of registration. 477

Sec. 4510.04. It is an affirmative defense to any prosecution 478
brought under section 4510.11, 4510.14, 4510.16, or 4510.21 of the 479
Revised Code or under any substantially equivalent municipal 480
ordinance that the alleged offender drove under suspension, 481
without a valid permit or driver's or commercial driver's license, 482
or in violation of a restriction because of a substantial 483
emergency, and because no other person was reasonably available to 484
drive in response to the emergency. 485

~~It is an affirmative defense to any prosecution brought under~~ 486
~~section 4510.16 of the Revised Code that the order of suspension~~ 487

~~resulted from the failure of the alleged offender to respond to a 488
financial responsibility random verification request under 489
division (A)(3)(c) of section 4509.101 of the Revised Code and 490
that, at the time of the initial financial responsibility random 491
verification request, the alleged offender was in compliance with 492
division (A)(1) of section 4509.101 of the Revised Code as shown 493
by proof of financial responsibility that was in effect at the 494
time of that request. 495~~

Section 2. That existing sections 4509.101 and 4510.04 of the 496
Revised Code are hereby repealed. 497

Section 3. That Section 3 of Am. Sub. S.B. 20 of the 120th 498
General Assembly, as amended by Am. Sub. H.B. 215 of the 122nd 499
General Assembly and Am. Sub. H.B. 163 of the 123rd General 500
Assembly, is hereby repealed. 501