

As Reported by the Senate Judiciary Committee

129th General Assembly

Regular Session

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Sub. S. B. No. 254

Senator Patton

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A BILL

To amend sections 1905.01, 4511.204, and 4511.205 of 1
the Revised Code to increase from more than 100 to 2
more than 200 the population necessary for a 3
municipal corporation to have a mayor's court 4
unless the municipal corporation is located 5
entirely on an island in Lake Erie and to provide 6
that a conviction or guilty plea of the offense of 7
driving a vehicle while writing, sending, or 8
reading a text-based communication on a handheld 9
electronic wireless communications device and a 10
conviction or guilty plea of a substantially 11
equivalent municipal ordinance for the same 12
conduct are allied offenses of similar import and 13
that an adjudication for the offense of a person 14
who is less than 18 years of age from using, in 15
any manner, an electronic wireless communications 16
device while driving and an adjudication of a 17
substantially equivalent municipal ordinance for 18
the same conduct are allied offenses of similar 19
import. 20

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

Section 1. That sections 1905.01, 4511.204, and 4511.205 of 21

the Revised Code be amended to read as follows: 22

Sec. 1905.01. (A) In Georgetown in Brown county, in Mount 23
Gilead in Morrow county, in any municipal corporation located 24
entirely on an island in Lake Erie, and in all other municipal 25
corporations having a population of more than ~~one~~ two hundred, 26
other than Batavia in Clermont county, not being the site of a 27
municipal court nor a place where a judge of the Auglaize county, 28
Crawford county, Jackson county, Miami county, Montgomery county, 29
Portage county, or Wayne county municipal court sits as required 30
pursuant to section 1901.021 of the Revised Code or by designation 31
of the judges pursuant to section 1901.021 of the Revised Code, 32
the mayor of the municipal corporation has jurisdiction, except as 33
provided in divisions (B), (C), and (E) of this section and 34
subject to the limitation contained in section 1905.03 and the 35
limitation contained in section 1905.031 of the Revised Code, to 36
hear and determine any prosecution for the violation of an 37
ordinance of the municipal corporation, to hear and determine any 38
case involving a violation of a vehicle parking or standing 39
ordinance of the municipal corporation unless the violation is 40
required to be handled by a parking violations bureau or joint 41
parking violations bureau pursuant to Chapter 4521. of the Revised 42
Code, and to hear and determine all criminal causes involving any 43
moving traffic violation occurring on a state highway located 44
within the boundaries of the municipal corporation, subject to the 45
limitations of sections 2937.08 and 2938.04 of the Revised Code. 46

(B)(1) In Georgetown in Brown county, in Mount Gilead in 47
Morrow county, in any municipal corporation located entirely on an 48
island in Lake Erie, and in all other municipal corporations 49
having a population of more than ~~one~~ two hundred, other than 50
Batavia in Clermont county, not being the site of a municipal 51
court nor a place where a judge of a court listed in division (A) 52

of this section sits as required pursuant to section 1901.021 of 53
the Revised Code or by designation of the judges pursuant to 54
section 1901.021 of the Revised Code, the mayor of the municipal 55
corporation has jurisdiction, subject to the limitation contained 56
in section 1905.03 of the Revised Code, to hear and determine 57
prosecutions involving a violation of an ordinance of the 58
municipal corporation relating to operating a vehicle while under 59
the influence of alcohol, a drug of abuse, or a combination of 60
them or relating to operating a vehicle with a prohibited 61
concentration of alcohol, a controlled substance, or a metabolite 62
of a controlled substance in the whole blood, blood serum or 63
plasma, breath, or urine, and to hear and determine criminal 64
causes involving a violation of section 4511.19 of the Revised 65
Code that occur on a state highway located within the boundaries 66
of the municipal corporation, subject to the limitations of 67
sections 2937.08 and 2938.04 of the Revised Code, only if the 68
person charged with the violation, within six years of the date of 69
the violation charged, has not been convicted of or pleaded guilty 70
to any of the following: 71

(a) A violation of an ordinance of any municipal corporation 72
relating to operating a vehicle while under the influence of 73
alcohol, a drug of abuse, or a combination of them or relating to 74
operating a vehicle with a prohibited concentration of alcohol, a 75
controlled substance, or a metabolite of a controlled substance in 76
the whole blood, blood serum or plasma, breath, or urine; 77

(b) A violation of section 4511.19 of the Revised Code; 78

(c) A violation of any ordinance of any municipal corporation 79
or of any section of the Revised Code that regulates the operation 80
of vehicles, streetcars, and trackless trolleys upon the highways 81
or streets, to which all of the following apply: 82

(i) The person, in the case in which the conviction was 83
obtained or the plea of guilty was entered, had been charged with 84

a violation of an ordinance of a type described in division	85
(B)(1)(a) of this section, or with a violation of section 4511.19	86
of the Revised Code;	87
(ii) The charge of the violation described in division	88
(B)(1)(c)(i) of this section was dismissed or reduced;	89
(iii) The violation of which the person was convicted or to	90
which the person pleaded guilty arose out of the same facts and	91
circumstances and the same act as did the charge that was	92
dismissed or reduced.	93
(d) A violation of a statute of the United States or of any	94
other state or a municipal ordinance of a municipal corporation	95
located in any other state that is substantially similar to	96
section 4511.19 of the Revised Code.	97
(2) The mayor of a municipal corporation does not have	98
jurisdiction to hear and determine any prosecution or criminal	99
cause involving a violation described in division (B)(1)(a) or (b)	100
of this section, regardless of where the violation occurred, if	101
the person charged with the violation, within six years of the	102
violation charged, has been convicted of or pleaded guilty to any	103
violation listed in division (B)(1)(a), (b), (c), or (d) of this	104
section.	105
If the mayor of a municipal corporation, in hearing a	106
prosecution involving a violation of an ordinance of the municipal	107
corporation the mayor serves relating to operating a vehicle while	108
under the influence of alcohol, a drug of abuse, or a combination	109
of them or relating to operating a vehicle with a prohibited	110
concentration of alcohol, a controlled substance, or a metabolite	111
of a controlled substance in the whole blood, blood serum or	112
plasma, breath, or urine, or in hearing a criminal cause involving	113
a violation of section 4511.19 of the Revised Code, determines	114
that the person charged, within six years of the violation	115

charged, has been convicted of or pleaded guilty to any violation 116
listed in division (B)(1)(a), (b), (c), or (d) of this section, 117
the mayor immediately shall transfer the case to the county court 118
or municipal court with jurisdiction over the violation charged, 119
in accordance with section 1905.032 of the Revised Code. 120

(C)(1) In Georgetown in Brown county, in Mount Gilead in 121
Morrow county, in any municipal corporation located entirely on an 122
island in Lake Erie, and in all other municipal corporations 123
having a population of more than ~~one~~ two hundred, other than 124
Batavia in Clermont county, not being the site of a municipal 125
court and not being a place where a judge of a court listed in 126
division (A) of this section sits as required pursuant to section 127
1901.021 of the Revised Code or by designation of the judges 128
pursuant to section 1901.021 of the Revised Code, the mayor of the 129
municipal corporation, subject to sections 1901.031, 2937.08, and 130
2938.04 of the Revised Code, has jurisdiction to hear and 131
determine prosecutions involving a violation of a municipal 132
ordinance that is substantially equivalent to division (A) of 133
section 4510.14 or section 4510.16 of the Revised Code and to hear 134
and determine criminal causes that involve a moving traffic 135
violation, that involve a violation of division (A) of section 136
4510.14 or section 4510.16 of the Revised Code, and that occur on 137
a state highway located within the boundaries of the municipal 138
corporation only if all of the following apply regarding the 139
violation and the person charged: 140

(a) Regarding a violation of section 4510.16 of the Revised 141
Code or a violation of a municipal ordinance that is substantially 142
equivalent to that division, the person charged with the 143
violation, within six years of the date of the violation charged, 144
has not been convicted of or pleaded guilty to any of the 145
following: 146

(i) A violation of section 4510.16 of the Revised Code; 147

(ii) A violation of a municipal ordinance that is 148
substantially equivalent to section 4510.16 of the Revised Code; 149

(iii) A violation of any municipal ordinance or section of 150
the Revised Code that regulates the operation of vehicles, 151
streetcars, and trackless trolleys upon the highways or streets, 152
in a case in which, after a charge against the person of a 153
violation of a type described in division (C)(1)(a)(i) or (ii) of 154
this section was dismissed or reduced, the person is convicted of 155
or pleads guilty to a violation that arose out of the same facts 156
and circumstances and the same act as did the charge that was 157
dismissed or reduced. 158

(b) Regarding a violation of division (A) of section 4510.14 159
of the Revised Code or a violation of a municipal ordinance that 160
is substantially equivalent to that division, the person charged 161
with the violation, within six years of the date of the violation 162
charged, has not been convicted of or pleaded guilty to any of the 163
following: 164

(i) A violation of division (A) of section 4510.14 of the 165
Revised Code; 166

(ii) A violation of a municipal ordinance that is 167
substantially equivalent to division (A) of section 4510.14 of the 168
Revised Code; 169

(iii) A violation of any municipal ordinance or section of 170
the Revised Code that regulates the operation of vehicles, 171
streetcars, and trackless trolleys upon the highways or streets in 172
a case in which, after a charge against the person of a violation 173
of a type described in division (C)(1)(b)(i) or (ii) of this 174
section was dismissed or reduced, the person is convicted of or 175
pleads guilty to a violation that arose out of the same facts and 176
circumstances and the same act as did the charge that was 177
dismissed or reduced. 178

(2) The mayor of a municipal corporation does not have 179
jurisdiction to hear and determine any prosecution or criminal 180
cause involving a violation described in division (C)(1)(a)(i) or 181
(ii) of this section if the person charged with the violation, 182
within six years of the violation charged, has been convicted of 183
or pleaded guilty to any violation listed in division 184
(C)(1)(a)(i), (ii), or (iii) of this section and does not have 185
jurisdiction to hear and determine any prosecution or criminal 186
cause involving a violation described in division (C)(1)(b)(i) or 187
(ii) of this section if the person charged with the violation, 188
within six years of the violation charged, has been convicted of 189
or pleaded guilty to any violation listed in division 190
(C)(1)(b)(i), (ii), or (iii) of this section. 191

(3) If the mayor of a municipal corporation, in hearing a 192
prosecution involving a violation of an ordinance of the municipal 193
corporation the mayor serves that is substantially equivalent to 194
division (A) of section 4510.14 or section 4510.16 of the Revised 195
Code or a violation of division (A) of section 4510.14 or section 196
4510.16 of the Revised Code, determines that, under division 197
(C)(2) of this section, mayors do not have jurisdiction of the 198
prosecution, the mayor immediately shall transfer the case to the 199
county court or municipal court with jurisdiction over the 200
violation in accordance with section 1905.032 of the Revised Code. 201

(D) If the mayor of a municipal corporation has jurisdiction 202
pursuant to division (B)(1) of this section to hear and determine 203
a prosecution or criminal cause involving a violation described in 204
division (B)(1)(a) or (b) of this section, the authority of the 205
mayor to hear or determine the prosecution or cause is subject to 206
the limitation contained in division (C) of section 1905.03 of the 207
Revised Code. If the mayor of a municipal corporation has 208
jurisdiction pursuant to division (A) or (C) of this section to 209
hear and determine a prosecution or criminal cause involving a 210

violation other than a violation described in division (B)(1)(a) 211
or (b) of this section, the authority of the mayor to hear or 212
determine the prosecution or cause is subject to the limitation 213
contained in division (C) of section 1905.031 of the Revised Code. 214

(E)(1) The mayor of a municipal corporation does not have 215
jurisdiction to hear and determine any prosecution or criminal 216
cause involving any of the following: 217

(a) A violation of section 2919.25 or 2919.27 of the Revised 218
Code; 219

(b) A violation of section 2903.11, 2903.12, 2903.13, 220
2903.211, or 2911.211 of the Revised Code that involves a person 221
who was a family or household member of the defendant at the time 222
of the violation; 223

(c) A violation of a municipal ordinance that is 224
substantially equivalent to an offense described in division 225
(E)(1)(a) or (b) of this section and that involves a person who 226
was a family or household member of the defendant at the time of 227
the violation. 228

(2) The mayor of a municipal corporation does not have 229
jurisdiction to hear and determine a motion filed pursuant to 230
section 2919.26 of the Revised Code or filed pursuant to a 231
municipal ordinance that is substantially equivalent to that 232
section or to issue a protection order pursuant to that section or 233
a substantially equivalent municipal ordinance. 234

(3) As used in this section, "family or household member" has 235
the same meaning as in section 2919.25 of the Revised Code. 236

(F) In keeping a docket and files, the mayor, and a mayor's 237
court magistrate appointed under section 1905.05 of the Revised 238
Code, shall be governed by the laws pertaining to county courts. 239

Sec. 4511.204. (A) No person shall drive a motor vehicle, 240

trackless trolley, or streetcar on any street, highway, or 241
property open to the public for vehicular traffic while using a 242
handheld electronic wireless communications device to write, send, 243
or read a text-based communication. 244

(B) Division (A) of this section does not apply to any of the 245
following: 246

(1) A person using a handheld electronic wireless 247
communications device in that manner for emergency purposes, 248
including an emergency contact with a law enforcement agency, 249
hospital or health care provider, fire department, or other 250
similar emergency agency or entity; 251

(2) A person driving a public safety vehicle who uses a 252
handheld electronic wireless communications device in that manner 253
in the course of the person's duties; 254

(3) A person using a handheld electronic wireless 255
communications device in that manner whose motor vehicle is in a 256
stationary position and who is outside a lane of travel; 257

(4) A person reading, selecting, or entering a name or 258
telephone number in a handheld electronic wireless communications 259
device for the purpose of making or receiving a telephone call; 260

(5) A person receiving wireless messages on a device 261
regarding the operation or navigation of a motor vehicle; 262
safety-related information, including emergency, traffic, or 263
weather alerts; or data used primarily by the motor vehicle; 264

(6) A person receiving wireless messages via radio waves; 265

(7) A person using a device for navigation purposes; 266

(8) A person conducting wireless interpersonal communication 267
with a device that does not require manually entering letters, 268
numbers, or symbols or reading text messages, except to activate, 269
deactivate, or initiate the device or a feature or function of the 270

device;	271
(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;	272 273
(10) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle.	274 275 276
(C) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (A) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.	277 278 279 280 281 282 283 284 285 286 287 288
(D) Whoever violates division (A) of this section is guilty of a minor misdemeanor.	289 290
(E) This section shall not be construed as invalidating, preempting, or superseding a substantially equivalent municipal ordinance that prescribes penalties for violations of that ordinance that are greater than the penalties prescribed in this section for violations of this section.	291 292 293 294 295
(F) <u>A prosecution for a violation of this section does not preclude a prosecution for a violation of a substantially equivalent municipal ordinance based on the same conduct. However, if an offender is convicted of or pleads guilty to a violation of this section and is also convicted of or pleads guilty to a violation of a substantially equivalent municipal ordinance based</u>	296 297 298 299 300 301

on the same conduct, the two offenses are allied offenses of 302
similar import under section 2941.25 of the Revised Code. 303

(G) As used in this section: 304

(1) "Electronic wireless communications device" includes any 305
of the following: 306

(a) A wireless telephone; 307

(b) A text-messaging device; 308

(c) A personal digital assistant; 309

(d) A computer, including a laptop computer and a computer 310
tablet; 311

(e) Any other substantially similar wireless device that is 312
designed or used to communicate text. 313

(2) "Voice-operated or hands-free device" means a device that 314
allows the user to vocally compose or send, or to listen to a 315
text-based communication without the use of either hand except to 316
activate or deactivate a feature or function. 317

(3) "Write, send, or read a text-based communication" means 318
to manually write or send, or read a text-based communication 319
using an electronic wireless communications device, including 320
manually writing or sending, or reading communications referred to 321
as text messages, instant messages, or electronic mail. 322

Sec. 4511.205. (A) No holder of a temporary instruction 323
permit who has not attained the age of eighteen years and no 324
holder of a probationary driver's license shall drive a motor 325
vehicle on any street, highway, or property used by the public for 326
purposes of vehicular traffic or parking while using in any manner 327
an electronic wireless communications device. 328

(B) Division (A) of this section does not apply to either of 329
the following: 330

(1) A person using an electronic wireless communications device for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor vehicle is outside a lane of travel;

(3) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving.

(C)(1) Except as provided in division (C)(2) of this section, whoever violates division (A) of this section shall be fined one hundred fifty dollars. In addition, the court shall impose a class seven suspension of the offender's driver's license or permit for a definite period of sixty days.

(2) If the ~~offender~~ person previously has been ~~convicted of~~ adjudicated a delinquent child or a juvenile traffic offender for a violation of this section, whoever violates this section shall be fined three hundred dollars. In addition, the court shall impose a class seven suspension of the ~~offender's~~ person's driver's license or permit for a definite period of one year.

(D) The filing of a sworn complaint against a person for a violation of this section does not preclude the filing of a sworn complaint for a violation of a substantially equivalent municipal ordinance for the same conduct. However, if a person is adjudicated a delinquent child or a juvenile traffic offender for a violation of this section and is also adjudicated a delinquent child or a juvenile traffic offender for a violation of a substantially equivalent municipal ordinance for the same conduct, the two offenses are allied offenses of similar import under section 2941.25 of the Revised Code.

(E) As used in this section, "electronic wireless communications device" includes any of the following:	362 363
(1) A wireless telephone;	364
(2) A personal digital assistant;	365
(3) A computer, including a laptop computer and a computer tablet;	366 367
(4) A text-messaging device;	368
(5) Any other substantially similar electronic wireless device that is designed or used to communicate via voice, image, or written word.	369 370 371
Section 2. That existing sections 1905.01, 4511.204, and 4511.205 of the Revised Code are hereby repealed.	372 373
Section 3. (A) Upon the effective date of this act, within each municipal corporation with a population of two hundred or less, except for any municipal corporation located entirely on an island in Lake Erie, the jurisdiction of the mayor in all civil and criminal causes that otherwise was granted under section 1905.01 of the Revised Code prior to the effective date of this act terminates. Upon the effective date of this act, all prosecutions, cases, criminal causes, and other proceedings then pending in a mayor's court of a municipal corporation that has a population of two hundred or less and is not located entirely on an island in Lake Erie shall be transferred to and proceed in the municipal court, county court, or court of common pleas with jurisdiction over the alleged violation that is the basis of the prosecution, case, cause, or proceeding, as if the prosecution, case, cause, or proceeding originally had been instituted in the municipal court, county court, or court of common pleas.	374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389
(B) Upon the transfer of a prosecution, case, criminal cause, or other proceeding to a municipal court, county court, or court	390 391

of common pleas under division (A) of this section, the mayor of 392
the municipal corporation before whom the prosecution, case, 393
cause, or proceeding was pending upon the effective date of this 394
act shall transfer to the municipal court, county court, or court 395
of common pleas the pleadings, orders, entries, dockets, bonds, 396
papers, records, books, exhibits, files, moneys, property, and 397
persons that belong to, are in the possession of, or were subject 398
to the jurisdiction of the mayor and that pertain to the 399
transferred prosecution, case, cause, or proceeding. 400