

As Introduced

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S. B. No. 235

Senator Cafaro

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A B I L L

To amend sections 4506.16 and 4511.35 of the Revised 1
Code to increase the penalties related to 2
operating a commercial motor vehicle on the wrong 3
side of an interstate freeway. 4

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

Section 1. That sections 4506.16 and 4511.35 of the Revised 5
Code be amended to read as follows: 6

Sec. 4506.16. (A) Any person who is found to have been 7
convicted of a violation of an out-of-service order shall be 8
disqualified by the registrar of motor vehicles as follows: 9

(1) If the person has not been convicted previously of a 10
violation of an out-of-service order, the period of 11
disqualification is one hundred eighty days. 12

(2) If, during any ten-year period, the driver is convicted 13
of a second violation of an out-of-service order in an incident 14
separate from the incident that resulted in the first violation, 15
the period of disqualification is two years. 16

(3) If, during any ten-year period, the driver is convicted 17
of a third or subsequent violation of an out-of-service order in 18
an incident separate from the incidents that resulted in the 19

previous violations during that ten-year period, the period of 20
disqualification is three years. 21

(B)(1) A driver is disqualified for one hundred eighty days 22
if the driver is convicted of a first violation of an 23
out-of-service order while transporting hazardous materials 24
required to be placarded under the "Hazardous Materials 25
Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as 26
amended, or while operating a motor vehicle designed to transport 27
sixteen or more passengers, including the driver. 28

(2) A driver is disqualified for a period of three years if, 29
during any ten-year period, the driver is convicted of a second or 30
subsequent violation, in an incident separate from the incident 31
that resulted in a previous violation during that ten-year period, 32
of an out-of-service order while transporting hazardous materials 33
required to be placarded under that act, or while operating a 34
motor vehicle designed to transport sixteen or more passengers, 35
including the driver. 36

(C) Whoever violates division (A)(1) of section 4506.15 of 37
the Revised Code or a similar law of another state or a foreign 38
jurisdiction, immediately shall be placed out-of-service for 39
twenty-four hours, in addition to any disqualification required by 40
this section and any other penalty imposed by the Revised Code. 41

(D) The registrar of motor vehicles shall disqualify any 42
holder of a commercial driver's license, or any operator of a 43
commercial motor vehicle for which a commercial driver's license 44
is required, from operating a commercial motor vehicle as follows: 45

(1) Upon a first conviction for a violation of any provision 46
of divisions (A)(2) to (12) of section 4506.15 of the Revised Code 47
or a similar law of another state or a foreign jurisdiction, or 48
upon a first suspension imposed under section 4511.191 of the 49
Revised Code or a similar law of another state or foreign 50

jurisdiction, one year; 51

(2) Upon a second conviction for a violation of any provision 52
of divisions (A)(2) to (12) of section 4506.15 of the Revised Code 53
or a similar law of another state or a foreign jurisdiction, or 54
upon a second suspension imposed under section 4511.191 of the 55
Revised Code or a similar law of another state or foreign 56
jurisdiction, or any combination of such violations arising from 57
two or more separate incidents, the person shall be disqualified 58
for life or for any other period of time as determined by the 59
United States secretary of transportation and designated by the 60
director of public safety by rule; 61

(3) Upon a first conviction for any of the following 62
violations while transporting hazardous materials, three years: 63

(a) Divisions (A)(2) to (12) of section 4506.15 of the 64
Revised Code; 65

(b) A similar law of another state or a foreign jurisdiction. 66

(4) Upon conviction of a violation of division (A)(13) of 67
section 4506.15 of the Revised Code or a similar law of another 68
state or a foreign jurisdiction, the person shall be disqualified 69
for life; 70

(5)(a) Upon conviction of two serious traffic violations 71
involving the operation of a commercial motor vehicle by the 72
person and arising from separate incidents occurring in a 73
three-year period, the person shall be disqualified for sixty 74
days, which disqualification shall be imposed consecutively to any 75
other separate disqualification imposed under division (D)(5) or 76
(6) of this section; 77

(b) Upon conviction of three serious traffic violations 78
involving the operation of a commercial motor vehicle by the 79
person and arising from separate incidents occurring in a 80
three-year period, the person shall be disqualified for one 81

hundred twenty days, which disqualification shall be imposed 82
consecutively to any other separate disqualification imposed under 83
division (D)(5) or (6) of this section; 84

(6)(a) Upon conviction of two serious traffic violations 85
involving the operation of a vehicle other than a commercial motor 86
vehicle by the person and arising from separate incidents 87
occurring in a three-year period, the person shall be disqualified 88
for sixty days if the conviction results in the suspension, 89
cancellation, or revocation of the holder's commercial driver's 90
license or noncommercial motor vehicle driving privileges, which 91
disqualification shall be imposed consecutively to any other 92
separate disqualification imposed under division (D)(5) or (6) of 93
this section; 94

(b) Upon conviction of three serious traffic violations 95
involving the operation of a vehicle other than a commercial motor 96
vehicle by the person and arising from separate incidents 97
occurring in a three-year period, the person shall be disqualified 98
for one hundred twenty days if the conviction results in the 99
suspension, cancellation, or revocation of the holder's commercial 100
driver's license or noncommercial motor vehicle driving 101
privileges, which disqualification shall be imposed consecutively 102
to any other separate disqualification imposed under division 103
(D)(5) or (6) of this section. 104

(7) Upon a first conviction involving the operation of a 105
commercial motor vehicle in violation of any provisions of 106
sections 4511.61 to 4511.63 of the Revised Code or a similar law 107
of another state or foreign jurisdiction, not less than sixty 108
days; 109

(8) Upon a second conviction involving the operation of a 110
commercial motor vehicle in violation of any provisions of 111
sections 4511.61 to 4511.63 of the Revised Code or a similar law 112
of another state or foreign jurisdiction within three years of the 113

first such conviction, not less than one hundred twenty days; 114

(9) Upon a third or subsequent conviction involving the 115
operation of a commercial motor vehicle in violation of any 116
provisions of sections 4511.61 to 4511.63 of the Revised Code or a 117
similar law of another state or foreign jurisdiction within three 118
years of the first such conviction, not less than one year; 119

(10) Upon receiving notification from the federal motor 120
carrier safety administration, the registrar immediately, prior to 121
any hearing, shall disqualify any commercial motor vehicle driver 122
whose driving is determined to constitute an imminent hazard as 123
defined under federal motor carrier safety regulation 49 C.F.R. 124
383.52; 125

(11) Upon receiving notification from a court under section 126
4511.35 of the Revised Code, for the period determined by the 127
court pursuant to that section. 128

(E) For the purposes of this section, conviction of a 129
violation for which disqualification is required includes 130
conviction under any municipal ordinance that is substantially 131
similar to any section of the Revised Code that is set forth in 132
division (D) of this section and may be evidenced by any of the 133
following: 134

(1) A judgment entry of a court of competent jurisdiction in 135
this or any other state; 136

(2) An administrative order of a state agency of this or any 137
other state having statutory jurisdiction over commercial drivers; 138

(3) A computer record obtained from or through the commercial 139
driver's license information system; 140

(4) A computer record obtained from or through a state agency 141
of this or any other state having statutory jurisdiction over 142
commercial drivers or the records of commercial drivers. 143

(F) For purposes of this section, conviction of disqualifying offenses committed in a noncommercial motor vehicle are included if either of the following applies:

(1) The offense occurred after the person obtained the person's commercial driver's license.

(2) The offense occurs on or after September 30, 2005.

(G) If a person commits a serious traffic violation by operating a commercial motor vehicle without having a commercial driver's license in the person's possession as described in division (GG)(3)(e) of section 4506.01 of the Revised Code and the person then submits proof to either the enforcement agency that issued the citation for the violation or to the court with jurisdiction over the case before the date of the person's initial appearance that shows that the person held a valid commercial driver's license at the time of the violation, the violation shall not be deemed to be a serious traffic violation.

(H) Any record described in division (C) of this section shall be deemed to be self-authenticating when it is received by the bureau of motor vehicles.

(I) When disqualifying a driver, the registrar shall cause the records of the bureau to be updated to reflect that action within ten days after it occurs.

(J) The registrar immediately shall notify a driver who is finally convicted of any offense described in section 4506.15 of the Revised Code or division ~~(B)~~(D)(4), (5), or (6) of this section and thereby is subject to disqualification, of the offense or offenses involved, of the length of time for which disqualification is to be imposed, and that the driver may request a hearing within thirty days of the mailing of the notice to show cause why the driver should not be disqualified from operating a commercial motor vehicle. If a request for such a hearing is not

made within thirty days of the mailing of the notice, the order of 175
disqualification is final. The registrar may designate hearing 176
examiners who, after affording all parties reasonable notice, 177
shall conduct a hearing to determine whether the disqualification 178
order is supported by reliable evidence. The registrar shall adopt 179
rules to implement this division. 180

(K) Any person who is disqualified from operating a 181
commercial motor vehicle under this section may apply to the 182
registrar for a driver's license to operate a motor vehicle other 183
than a commercial motor vehicle, provided the person's commercial 184
driver's license is not otherwise suspended. A person whose 185
commercial driver's license is suspended shall not apply to the 186
registrar for or receive a driver's license under Chapter 4507. of 187
the Revised Code during the period of suspension. 188

(L) The disqualifications imposed under this section are in 189
addition to any other penalty imposed by the Revised Code. 190

Sec. 4511.35. (A) Whenever any highway has been divided into 191
two roadways by an intervening space, or by a physical barrier, or 192
clearly indicated dividing section so constructed as to impede 193
vehicular traffic, every vehicle shall be driven only upon the 194
right-hand roadway, and no vehicle shall be driven over, across, 195
or within any such dividing space, barrier, or section, except 196
through an opening, crossover, or intersection established by 197
public authority. This section does not prohibit the occupancy of 198
such dividing space, barrier, or section for the purpose of an 199
emergency stop or in compliance with an order of a police officer. 200

(B)(1) Except as otherwise provided in ~~this~~ division (B)(2) 201
of this section, whoever violates division (A) of this section is 202
guilty of a minor misdemeanor. If, within one year of the offense, 203
the offender previously has been convicted of or pleaded guilty to 204
one predicate motor vehicle or traffic offense, whoever violates 205

division (A) of this section is guilty of a misdemeanor of the 206
fourth degree. If, within one year of the offense, the offender 207
previously has been convicted of two or more predicate motor 208
vehicle or traffic offenses, whoever violates division (A) of this 209
section is guilty of a misdemeanor of the third degree. 210

If the trier of fact finds that, in violating division (A) of 211
this section, the offender operated a commercial motor vehicle for 212
a distance of five hundred feet or more upon the left-hand roadway 213
of a divided highway that is part of the interstate system and 214
division (B)(2) of this section does not apply, the court, in 215
addition to any other penalty that the court is required or 216
permitted by law to impose on the offender, shall direct the 217
registrar of motor vehicles to disqualify the offender from 218
operating a commercial motor vehicle for a definite period not to 219
exceed one year. 220

(2) Whoever violates division (A) of this section is guilty 221
of a fourth degree felony if all of the following apply: 222

(a) The offender operated a commercial vehicle upon the 223
left-hand roadway of a divided highway and was involved in a motor 224
vehicle collision that occurred on that left-hand roadway; 225

(b) The collision caused physical harm to another person or 226
caused the death of another person; and 227

(c) The divided highway on which the collision occurred is 228
part of the interstate system. 229

If the violation caused physical harm to another person, the 230
court, in addition to any other penalty that the court is required 231
or permitted by law to impose on an offender to which division 232
(B)(2) of this section applies, shall direct the registrar of 233
motor vehicles to disqualify the offender from operating a 234
commercial motor vehicle for a definite period of two to ten 235
years. If the violation caused the death of another person, the 236

court, in addition to any other penalty that the court is required 237
or permitted by law to impose on an offender to which division 238
(B)(2) of this section applies, shall direct the registrar of 239
motor vehicles to disqualify the offender from operating a 240
commercial motor vehicle for life. 241

(C) As used in this section: 242

(1) "Interstate system" has the same meaning as in 23 U.S.C. 243
101. 244

(2) "Physical harm to another person" has the same meaning as 245
"physical harm to persons" in section 2901.01 of the Revised Code. 246

Section 2. That existing sections 4506.16 and 4511.35 of the 247
Revised Code are hereby repealed. 248