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Bill Analysis
Legislative Service Commission

Sub. H.B. 409

127th General Assembly

(As Reported by H. Infrastructure, Homeland Security and Veterans Affairs)

Reps. Batchelder, Patton, Uecker, Wachtmann, Harwood, Combs, Brinkman, Setzer, Blessing, Collier, Hughes, Flowers, Stebelton, Aslanides, Fessler, J. Otterman, Reinhard, Widowfield

BILL SUMMARY

- Requires any test or examination given to a person to obtain or retain a commercial driver's license or commercial driver's temporary instruction permit to be administered in the English language only, without the assistance of an interpreter.
- Provides that certain penalty enhancements and mandatory prison terms that apply in certain aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter cases when the offender was driving under suspension at the time of the offense also apply if the offender was driving under cancellation or did not have a valid driver's license at the time of the offense.

CONTENT AND OPERATION

Commercial driver's licenses tests and examinations

A person who wishes to operate a commercial motor vehicle in this state must obtain a commercial driver's license (CDL). Among the different types of commercial motor vehicles are (1) any combination of vehicles with a combined gross vehicle weight rating of 26,001 pounds or more (for example, a typical tractor/semi-trailer combination, commonly known as an "18-wheeler"), (2) any single vehicle with a gross vehicle weight rating of 26,001 pounds or more, and (3) any single vehicle or combination of vehicles that is not described in item (1) or (2), but that is designed to transport 16 or more passengers, including the driver, or is transporting hazardous materials in an amount requiring placarding.¹

¹ R.C. 4506.01(D), not in the bill.

In order to obtain a CDL, a person ("applicant") first must obtain a commercial driver's temporary instruction permit packet from the Registrar of Motor Vehicles or a deputy registrar.² The applicant's vision is checked at this time. Next, after studying the packet materials, the applicant must take and pass a written test of general commercial driver knowledge (40 of 50 questions must be answered correctly in order to pass) and a separate test for each desired special endorsement (combination vehicle, air brakes, passenger transport, etc.).³ These tests are given in an electronic format in the English language plus seven other languages.⁴ An applicant who takes these tests in any of the eight available languages is not permitted to have the assistance of an interpreter. If an applicant speaks a language other than one of the eight available languages, the applicant may take the tests with the assistance of an interpreter, who must be supplied by the applicant.⁵

Once the applicant has obtained a commercial driver's temporary instruction permit, the applicant may operate a commercial motor vehicle so long as the applicant has the permit in the applicant's possession and is accompanied by a person who holds a valid CDL for the type of vehicle being driven and occupies a seat beside the applicant in order to give instruction in operating the commercial motor vehicle.⁶

In order to obtain a CDL, the applicant (who already holds a commercial driver's temporary instruction permit) must take and pass a skills test, which is composed of a pre-trip inspection and a road test. The road test consists of an off-road maneuvering test and an on-road test. Skills tests are administered by the State Highway Patrol and certain third parties. In all cases and for all portions of the skills test, the person giving the skills test speaks only in English and the applicant is not permitted to have the assistance of an interpreter.⁷

The bill provides that in order to determine a person's ability to understand highway warnings or traffic signs or directions, any test or examination given to a

² R.C. 4506.06(A).

³ Ohio Administrative Code section 4501:1-1-08(B).

⁴ The other languages are Arabic, Chinese, French, Japanese, Russian, Somali, and Spanish.

⁵ OAC 4501:1-1-08(D).

⁶ R.C. 4506.06(A).

⁷ R.C. 4506.09.

person to obtain or retain a commercial driver's license or commercial driver's temporary instruction permit must be administered in the English language only, without the assistance of an interpreter. Thus, under the bill, the written commercial driver knowledge tests must be given only in English and not in any other language, and the assistance of an interpreter is prohibited.

Enhanced penalties and mandatory prison terms in certain aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter cases

Current law

Current law prohibits any person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, from causing the death of another or the unlawful termination of another's pregnancy. Depending on the facts and circumstances of a case, violation of this prohibition constitutes either aggravated vehicular homicide, vehicular homicide, or vehicular manslaughter.

Aggravated vehicular homicide. A person commits aggravated vehicular homicide if the person causes the death of the victim or the unlawful termination of the pregnancy as the proximate result of committing a state or local OVI, drunken boating, or drunken piloting of an aircraft offense. This type of aggravated vehicular homicide violation, which sometimes is referred to as "OVI-related aggravated vehicular homicide," is a second degree felony. The court is required to sentence such an offender to a mandatory prison term of at least two years and may impose a fine of not more than \$15,000.⁸

OVI-related aggravated vehicular homicide is a first degree felony, however, if at the time of the offense the offender was driving under a suspension imposed for any reason or if the offender previously has been convicted of or pleaded guilty to aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, or any traffic-related homicide, manslaughter, or assault offense. The court is required to sentence such an offender to a mandatory prison term of at least three years and may impose a fine of not more than \$20,000.⁹

A person commits the less serious form of aggravated vehicular homicide (not OVI related) if the person causes the death of the victim or the unlawful termination of the pregnancy recklessly or as the proximate result of committing a

⁸ R.C. 2903.06(B)(2)(a). A second degree felony normally is punishable by a definite prison term of from two to eight years in yearly increments.

⁹ R.C. 2903.06(B)(2)(b). A first degree felony normally is punishable by a definite prison term of from three to ten years in yearly increments.

reckless operation offense while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone that has been properly marked with the required signage. This particular form of aggravated vehicular homicide generally is a third degree felony.¹⁰ It is a second degree felony, however, if at the time of the offense the offender was driving under a suspension imposed for any reason or if the offender previously has been convicted of or pleaded guilty to aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, or any traffic-related homicide, manslaughter, or assault offense.¹¹

The court must sentence an offender who commits non-OVI aggravated vehicular homicide to a mandatory prison term if (1) the offender previously has been convicted of or pleaded guilty to aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, aggravated vehicular assault, or vehicular assault, or (2) at the time of the offense the offender was driving under a suspension imposed for any reason.¹²

Vehicular homicide. If the offender caused the death of the victim or the unlawful termination of the pregnancy negligently or as the proximate result of committing a speeding offense while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone that has been properly marked with the required signage, the offender's actions constitute vehicular homicide. This offense generally is a first degree misdemeanor.¹³ Vehicular manslaughter is a fourth degree felony, however, if at the time of the offense the offender was driving under a suspension or revocation imposed for any reason or if the offender previously has been convicted of or pleaded guilty to aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, or any traffic-related homicide, manslaughter, or assault offense.¹⁴

The court must sentence an offender who commits vehicular homicide by acting negligently or by committing a speeding offense while operating or

¹⁰ R.C. 2903.06(B)(3). A third degree felony is punishable by a definite prison term of from one to five years in yearly increments, a fine of not more than \$10,000, or both.

¹¹ R.C. 2903.06(B)(3).

¹² R.C. 2903.06(E)(1) and (2).

¹³ R.C. 2903.06(C). A first degree misdemeanor is punishable by a jail term of not more than six months, a fine of not more than \$1,000, or both.

¹⁴ R.C. 2903.06(C). A fourth degree felony is punishable by a definite prison term of from six to eighteen months in monthly increments, a fine of not more than \$5,000, or both.

participating in the operation of a motor vehicle or motorcycle in a construction zone that has been properly marked with the required signage that is a felony offense to a mandatory prison term if (1) the offender previously has been convicted of or pleaded guilty to aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, aggravated vehicular assault, or vehicular assault, or (2) at the time of the offense the offender was driving under a suspension imposed for any reason.¹⁵

Vehicular manslaughter. If the offender caused the death of the victim or the unlawful termination of the pregnancy as the proximate result of committing a motor vehicle traffic offense that is contained in Title XLV of the Revised Code (which contains the laws governing motor vehicles) and is categorized as a minor misdemeanor or is a violation of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of the Revised Code that is contained in Title XLV and is a minor misdemeanor, the offender's actions constitute vehicular manslaughter. This offense generally is a second degree misdemeanor.¹⁶ Vehicular manslaughter is a first degree misdemeanor, however, if at the time of the offense the offender was driving under suspension imposed for any reason or if the offender previously has been convicted of or pleaded guilty to aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, or any traffic-related homicide, manslaughter, or assault offense.¹⁷

Changes made by the bill

The bill retains all of the above aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter provisions. The bill, however, modifies the enhanced penalty and mandatory prison term components by providing that these components apply not only to cases in which the offender was driving under suspension, but also to cases in which the offender was driving under cancellation or the offender did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and the offender was not eligible for renewal of the offender's driver's license or commercial driver's license without first undergoing the full examination process as required by law in certain circumstances.¹⁸

¹⁵ R.C. 2903.06(E)(1) and (2).

¹⁶ R.C. 2903.06(D). A second degree misdemeanor is punishable by a jail term of not more than 90 days, a fine of not more than \$750, or both.

¹⁷ R.C. 2903.06(D).

¹⁸ R.C. 2903.06(B)(2)(b)(i), (B)(3), (C), (D), and (E)(2).

HISTORY

ACTION	DATE
Introduced	12-11-07
Reported, H. Infrastructure, Homeland Security & Veterans Affairs	05-22-08

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