



Dennis M. Papp

Bill Analysis
Legislative Service Commission

S.B. 158

127th General Assembly
(As Introduced)

Sens. Padgett, Wilson, Schaffer, Cafaro

BILL SUMMARY

- Requires the sentencing court to impose the following penalties upon a person who is convicted of or pleads guilty to a violation of R.C. 4511.21(A), 4511.33(A), 4511.41(A), 4511.42(A), 4511.43(A) or (B), 4511.431(A), 4511.44(A), 4511.441(A), 4511.45(A)(1) or (2), 4511.451(B), 4511.46(A) or (D), or 4511.47(A) when the violation resulted in serious physical harm to, or the death of, another person: (1) in addition to any other penalty imposed for the offense, a mandatory fine of a specified amount, (2) a mandatory suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege under a Class 7 or Class 8 suspension, depending upon the circumstances present, and (3) a mandatory assessment of at least two points, with discretion to assess an increased amount of points, against the offender's license, permit, or privilege.
- Specifies that: (1) when investigating a motor vehicle accident involving an offender's motor vehicle and another motor vehicle, a bicycle, or a pedestrian in which an injured person who is not the offender is transported to a medical facility for emergency medical treatment, the involved peace officer may not complete the investigation and issue a ticket, citation, or summons to the offender for a violation of any provision of R.C. 4511.01 to 4511.76 until after the officer contacts the facility and is informed of the seriousness of the injuries that the injured person suffered in the accident, and (2) if the medical facility informs the investigating officer that the offender caused the injured person to suffer serious physical injury or caused the death of the injured person, and if the offender is not subject to indictment for any other violation arising from the accident, the investigating officer may issue to the offender a ticket, citation, or summons for the offense and must indicate on a ticket,

citation, or summon so issued that the offender is not permitted to enter a written plea of guilty and waive the offender's right to contest the ticket, citation, or summons in a trial but instead must appear in person in court to answer the charge.

- Establishes in the state treasury the Highway Safety Education Fund, consisting of those portions of fines collected for violations of the sections identified in the second preceding dot point that the bill requires to be deposited in the Fund and specifies that the Department of Public Safety is to use the money in the Fund only to pay for educational activities that relate to highway safety.

TABLE OF CONTENTS

Mandatory fines, license suspensions, and points assessments for certain traffic offenses that result in serious physical harm or death.....	2
Judicial license suspensions	4
License point assessment procedures	5
Existing law	5
Operation of the bill.....	6
Mandatory charging and court appearance of a person involved in a motor vehicle accident that results in serious physical harm or death.....	7
Highway Safety Education Fund.....	8
Traffic offenses to which the bill's mandatory penalties apply	8

CONTENT AND OPERATION

The bill requires the imposition of specified fines, license suspensions, and points assessments for certain traffic offenses if the offense results in serious physical harm to or the death of another and requires in certain circumstances the mandatory charging and court appearance of a person involved in a motor vehicle accident that results in serious physical harm to or the death of another.

Mandatory fines, license suspensions, and points assessments for certain traffic offenses that result in serious physical harm or death

The bill provides increased penalties that apply to a person who is convicted of or pleads guilty to a violation of R.C. 4511.21(A), 4511.33(A), 4511.41(A), 4511.42(A), 4511.43(A) or (B), 4511.431(A), 4511.44(A), 4511.441(A), 4511.45(A)(1) or (2), 4511.451(B), 4511.46(A) or (D), or 4511.47(A) if the person's violation resulted in "serious physical harm to another person" (see **COMMENT 1**) or the death of another person. All of those traffic

offenses, and the existing penalties that apply to them, are summarized below in "Traffic offenses to which the bill's mandatory penalties apply." The bill's increased penalties are as follows (R.C. 4511.21(P)(4)(a) and (b), 4511.33(B)(2) and (3), 4511.41(C)(2) and (3), 4511.42(B)(2) and (3), 4511.43(C)(2) and (3), 4511.431(B)(2) and (3), 4511.44(B)(2) and (3), 4511.441(B)(2) and (3), 4511.45(D)(2) and (3), 4511.451(D)(2) and (3), 4511.46(E)(2) and (3), and 4511.47(C)(2) and (3)):

(1) If the violation is a violation of R.C. 4511.21(A), 4511.33(A), 4511.41(A), 4511.42(A), 4511.43(A) or (B), 4511.431(A), 4511.44(A), 4511.441(A), 4511.451(B), 4511.46(A) or (D), or 4511.47(A) and *it resulted in serious physical harm to another person*, in addition to any penalty the court imposes under the existing penalty provisions that apply to the violation, the court must impose a fine of not more than \$500 and must impose a Class 8 license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(8) of R.C. 4510.02 (see "Judicial license suspensions," below). The court also must assess at least two, and may assess three or four, points against the offender's license, permit, or privilege, and it must notify the Registrar of Motor Vehicles of the number of points assessed in accordance with R.C. 4510.03 to 4510.036 (see "License point assessment procedures," below). The court must forward the first \$25 of any fine collected under this provision to the Treasurer of State for deposit into the Highway Safety Education Fund the bill creates (see "Highway Safety Education Fund," below). The provisions of R.C. 4511.41(C)(2) that pertain to the deposit of a portion of a fine imposed under the provision incorrectly refers to a fine imposed under "division (B)(2)" of the section instead of correctly referring to a fine imposed under "division (C)(2)" of the section.

(2) If the violation is a violation of R.C. 4511.45(A)(1) or (2) and *it resulted in serious physical harm to another*, the sentence that applies depends upon the number of times the offender, within one year of the violation, previously has been convicted of or pleaded guilty to a violation of R.C. 4511.45(A)(1) or (2). If the offender, within one year of the violation, has been convicted of or pleaded guilty to one or fewer violations of R.C. 4511.45(A)(1) and (2), in addition to any penalty the court imposes under the existing penalty provisions that apply to the violation, the court must impose a fine of not more than \$500 and must forward the first \$25 of any fine collected under this provision to the Treasurer of State for deposit into the Highway Safety Education Fund the bill creates (see "Highway Safety Education Fund," below). If the offender, within one year of the violation, has been convicted of or pleaded guilty to two or more violations of R.C. 4511.45(A)(1) and (2), in addition to any penalty the court imposes under the existing penalty provisions that apply to the violation (which the bill retains

without change), the court must impose a fine of not more than \$750 and must forward the first \$38 of any fine collected under this provision to the Treasurer of State for deposit into the Highway Safety Education Fund. In any case, in addition, the court must impose a Class 8 license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(8) of R.C. 4510.02 (see "**Judicial license suspensions**," below). In any case, the court also must assess at least two, and may assess three or four, points against the offender's license, permit, or privilege, and it must notify the Registrar of Motor Vehicles of the number of points assessed in accordance with R.C. 4510.03 to 4510.036 (see "**License point assessment procedures**," below).

(3) If the violation is a violation of R.C. 4511.21(A), 4511.33(A), 4511.41(A), 4511.42(A), 4511.43(A) or (B), 4511.431(A), 4511.44(A), 4511.441(A), 4511.45(A)(1) or (2), 4511.451(B), 4511.46(A) or (D), or 4511.47(A) and *it resulted in the death of another*, in addition to any penalty the court imposes under the existing penalty provisions that apply to the violation (which the bill retains without change), the court must impose a fine of not more than \$1,000 and must impose a Class 7 license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of R.C. 4510.02 (see "**Judicial license suspensions**," below). The court also must assess at least two, and may assess three, four, five, or six, points against the offender's license, permit, or privilege, and it must notify the Registrar of Motor Vehicles of the number of points assessed in accordance with R.C. 4510.03 to 4510.036 (see "**License point assessment procedures**," below). The court must forward the first \$50 of any fine collected under this provision to the Treasurer of State for deposit into the Highway Safety Education Fund the bill creates (see "**Highway Safety Education Fund**," below). The provisions of R.C. 4511.41(C)(3) that pertain to the deposit of a portion of a fine imposed under the provision incorrectly refers to a fine imposed under "division (B)(3)" of the section instead of correctly referring to a fine imposed under "division (C)(3)" of the section.

Judicial license suspensions

Existing law requires for some offenses, and permits for other offenses, the suspension of the driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege of a person who is convicted of or pleads guilty to the particular offense. In some cases, the suspension must be or may be imposed by the court imposing sentence on the offender (a judicial suspension), and, in other cases, it must be or may be imposed by the Bureau of Motor Vehicles (an administrative suspension). Judicial

suspensions generally are classified as Class 1 to Class 7 suspensions, as set forth in R.C. 4510.02(A)(1) to (7), and administrative suspensions generally are classified as Class A to Class F suspensions, as set forth in R.C. 4510.02(B)(1) to (6). Existing law provides that, when a court elects or is required to impose a judicial suspension from a specified suspension class, for each of the following suspension classes, the court must impose a definite period of suspension from the range specified for the suspension class: (1) for a Class 1 suspension, a definite period for the life of the person subject to the suspension, (2) for a Class 2 suspension, a definite period of three years to life, (3) for a Class 3 suspension, a definite period of two to ten years, (4) for a Class 4 suspension, a definite period of one to five years, (5) for a Class 5 suspension, a definite period of six months to three years, (6) for a Class 6 suspension, a definite period of three months to two years, and (7) for a Class 7 suspension, a definite period not to exceed one year. (R.C. 4510.02(A).)

The bill adds a new class of judicial suspensions, a Class 8 suspension, and specifies that a Class 8 suspension is to be for a definite period not to exceed six months (R.C. 4510.02(A)(8)). As described above in "*Mandatory fines, license suspensions, and points assessments for certain traffic offenses that result in serious physical harm or death*," the bill authorizes Class 8 suspensions for certain traffic offenses if the offense results in serious physical harm to, or the death of, another.

License point assessment procedures

Existing law

Existing law requires every court of record or mayor's court before which a person is charged with a violation for which points are chargeable as described below to assess and transcribe to the abstract of conviction furnished by the Bureau of Motor Vehicles to the court the number of points chargeable as described below in the correct space assigned on the reporting form. U.S. district courts with jurisdiction in Ohio and before which a person is charged with a violation for which points are chargeable are authorized to similarly assess the points. The Bureau must record within ten days after receipt, and keep at its main office, all abstracts received under this provision, or certain other specified provisions. The significance of points and the effect of their accumulation is described in **COMMENT 2**. (R.C. 4510.036(A) and (B).)

A court must assess points for an offense based on the following formula (R.C. 4510.036(C)):

(1) Six points for any of the following: (a) aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, aggravated vehicular assault, or

vehicular assault when the offense involves the operation of a vehicle, streetcar, or trackless trolley on a highway or street, (b) a violation of R.C. 2921.331 or an ordinance prohibiting the willful fleeing or eluding of a law enforcement officer, (c) a violation of R.C. 4549.02 or 4549.021 or an ordinance requiring the driver of a vehicle to stop and disclose identity at an accident, (d) a violation of R.C. 4511.251 or an ordinance prohibiting street racing, (e) a violation of R.C. 4510.11, 4510.14, 4510.16, or 4510.21 or an ordinance prohibiting the operation of a motor vehicle while the driver's license is under suspension, (f) a violation of R.C. 4511.19(A), an ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them, or an ordinance substantially equivalent to R.C. 4511.19(A) prohibiting the operation of a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the operator's system, (g) a violation of R.C. 2913.03 that does not involve an aircraft or motorboat or an ordinance prohibiting the operation of a vehicle without the owner's consent, or (h) a felony offense under the state's motor vehicle laws or a felony in the commission of which a motor vehicle was used;

(2) Four points for any of the following: (a) a violation of R.C. 4511.19(B) or an ordinance substantially equivalent to that division prohibiting the operation of a vehicle with a prohibited concentration of alcohol in the operator's system, (b) a violation of R.C. 4511.20 or an ordinance prohibiting the operation of a motor vehicle in willful or wanton disregard of the safety of persons or property, or (c) a violation of a law or ordinance pertaining to speed when the speed exceeds the lawful speed limit by 30 miles per hour or more;

(3) Two points for any of the following: (a) a violation of a law or ordinance pertaining to speed when the speed exceeds the lawful speed limit of 55 miles per hour or more by more than ten miles per hour or when the speed exceeds the lawful speed limit of less than 55 miles per hour by more than five miles per hour, (b) operating a motor vehicle in violation of a restriction imposed by the Registrar of Motor Vehicles, or (c) all other moving violations reported as described above.

(4) No points are assessed for a violation of a law or ordinance pertaining to speed, when the speed does not exceed the amounts for which four points or two points are to be assessed, as described in paragraphs (2)(c) and (3)(a), above.

Operation of the bill

The bill modifies the existing "points assessment formula" described above to reflect the point assessment provisions the bill provides for a person who is convicted of or pleaded guilty to specified traffic violations when the person's violation resulted in serious physical harm to another person or the death of

another person, as described above in "**Mandatory fines, license suspensions, and point assessments for certain traffic offenses that result in serious physical harm or death.**" Under the bill, a court must assess two to six points, determined as described above in "**Mandatory fines, license suspensions, and point assessments for certain traffic offenses that result in serious physical harm or death.**" for a violation of R.C. 4511.21, 4511.33, 4511.41, 4511.42, 4511.43, 4511.431, 4511.44, 4511.441, 4511.45, 4511.451, 4511.46, or 4511.47, all of which are summarized below in "**Traffic offenses to which the bill's mandatory penalties apply.**" (R.C. 4510.036(C)(13).)

Mandatory charging and court appearance of a person involved in a motor vehicle accident that results in serious physical harm or death

The bill specifies that, when investigating a motor vehicle accident that involves an offender's "motor vehicle" (see **COMMENT 3** for definition) and another motor vehicle, a bicycle, or a pedestrian in which an injured person who is not the offender is transported to a medical facility for emergency medical treatment, the State Highway Patrol Trooper, sheriff, sheriff's deputy, or other peace officer cannot complete the investigation and issue a ticket, citation, or summons to the offender for a violation of any provision of R.C. 4511.01 to 4511.76 (see the next paragraph) until after the investigating trooper, sheriff, deputy, or other officer contacts the medical facility and is informed of the seriousness of the injuries that the injured person suffered in the accident. If the medical facility informs the investigating trooper, sheriff, deputy, or other officer that the offender caused the injured person to suffer "serious physical injury" (this term is not defined) or caused the death of the injured person, and if the offender is not subject to indictment for any other violation arising from the accident, the investigating trooper, sheriff, deputy, or other officer may issue to the offender a ticket, citation, or summons for the offense. The ticket, citation, or summons must indicate that the offender is not permitted to enter a written plea of guilty and waive the offender's right to contest the ticket, citation, or summons in a trial but instead must appear in person in the proper court to answer the charge. (R.C. 4513.39(C).)

R.C. 4511.01 to 4511.76 set forth many of the state's Traffic Law prohibitions, including the prohibitions related to driving or having physical control of a vehicle while under the influence or with a prohibited concentration of alcohol in one's system, reckless operation of a vehicle, speeding, traffic movement and vehicle operation, right-of-way, pedestrians, bicycles, motorcycles, snowmobiles, streetcars, grade crossings, through highways, parking, and school buses.

Highway Safety Education Fund

The bill establishes in the state treasury the Highway Safety Education Fund, consisting of those portions of fines collected for violations of R.C. 4511.21, 4511.33, 4511.41, 4511.42, 4511.43, 4511.431, 4511.44, 4511.441, 4511.45, 4511.451, 4511.46, and 4511.47 and that are required to be deposited in the Fund, under provisions of the bill described above in "**Mandatory fines, license suspensions, and point assessments for certain traffic offenses that result in serious physical harm or death.**" The bill requires the Department of Public Safety to use the money in the Fund only to pay for educational activities that relate to highway safety. (R.C. 4501.14.)

Traffic offenses to which the bill's mandatory penalties apply

As described above in "**Mandatory fines, license suspensions, and point assessments for certain traffic offenses that result in serious physical harm or death,**" the bill provides for mandatory fines, license suspensions, and points assessments that apply to a person who is convicted of or pleads guilty to a violation of R.C. 4511.21(A), 4511.33(A), 4511.41(A), 4511.42(A), 4511.43(A) or (B), 4511.431(A), 4511.44(A), 4511.441(A), 4511.45(A)(1) or (2), 4511.451(B), 4511.46(A) or (D), or 4511.47(A), if the person's violation resulted in "serious physical harm" to another person (see **COMMENT 1**) or the death of another person. A summary of the specified traffic offenses and the current penalties for them follows:

(1) R.C. sec. 4511.21(A) prohibits a person from: (a) operating a "motor vehicle" (see **COMMENT 3**), trackless trolley, or streetcar at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface, and width of the street or highway and any other conditions, or (b) driving any motor vehicle, trackless trolley, or streetcar in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead. R.C. 4511.21(B) identifies certain circumstances in which a motor vehicle, trackless trolley, or streetcar may be operated and provides speeds at which, in the specified circumstances, it is prima-facie lawful, in the absence of a lower limit declared by the Director of Transportation or local authorities, for the operator of a motor vehicle, trackless trolley, or streetcar to operate the same at a speed not exceeding the specified speed (e.g., 20 miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, 25 miles per hour in most other portions of a municipal corporation, and 50 miles per hour on controlled-access highways and expressways within municipal corporations, etc.). R.C. 4511.21(C) specifies that it is prima-facie unlawful for any person to exceed most of the speed limitations specified in R.C. 4511.21(B).

Currently, R.C. 4511.21(P) specifies that, except as otherwise described in this paragraph, a violation of any provision of R.C. 4511.21 is a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of R.C. 4511.21 or of any substantially similar provision of a municipal ordinance, the violation is a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of R.C. 4511.21 or of any substantially similar provision of a municipal ordinance, the violation is a misdemeanor of the third degree. If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of R.C. 4511.21 or of any substantially similar provision of a municipal ordinance and operated a motor vehicle faster than 35 miles an hour in a business district of a municipal corporation, faster than 50 miles an hour in other portions of a municipal corporation, or faster than 35 miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, it is a misdemeanor of the fourth degree. If the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with R.C. 4511.98, the court, in addition to all other penalties, must impose upon the offender a fine of two times the usual amount imposed for the violation, provided that the court cannot impose the fine of two times the usual amount if the offender alleges and the court determines that the offender is an indigent person and unable to pay the fine.

(2) R.C. 4511.33(A) provides that, whenever any roadway has been divided into two or more clearly marked lanes for traffic, or wherever within municipal corporations traffic is lawfully moving in two or more substantially continuous lines in the same direction, the following rules apply: (a) a "vehicle" (see **COMMENT 4**) or trackless trolley must be driven, as nearly as is practicable, entirely within a single lane or line of traffic and must not be moved from such lane or line until the driver has first ascertained that such movement can be made with safety, (b) upon a roadway that is divided into three lanes and provides for two-way movement of traffic, a vehicle or trackless trolley must not be driven in the center lane except when overtaking and passing another vehicle or trackless trolley where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or when preparing for a left turn, or where the center lane is at the time allocated exclusively to traffic moving in the direction the vehicle or trackless trolley is proceeding and is posted with signs to give notice of such allocation, (c) official signs may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, or restricting the use of a particular lane to only buses during certain hours or during all hours, and drivers of vehicles and trackless trolleys must obey the directions of such signs, and (d) official traffic control devices may be installed prohibiting the changing of lanes

on sections of roadway and drivers of vehicles must obey the directions of every such device.

Currently, R.C. 4511.33(B) provides that, except as otherwise described in this paragraph, a violation of R.C. 4511.33(A) is a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one "predicate motor vehicle or traffic offense" (see **COMMENT 5**), the violation is a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more "predicate motor vehicle or traffic offenses," the violation is a misdemeanor of the third degree.

(3) R.C. 4511.41(A) provides that, when two "vehicles" (see **COMMENT 4**), including any trackless trolley or streetcar, approach or enter an intersection from different streets or highways at approximately the same time, the driver of the vehicle on the left must yield the right-of-way to the vehicle on the right. This right-of-way rule is modified at through highways and otherwise as stated in R.C. Chapter 4511.

Under existing R.C. 4511.41(C), except as otherwise described in this paragraph, a violation of R.C. 4511.41(A) is a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one "predicate motor vehicle or traffic offense" (see **COMMENT 5**), a violation of the provision is a misdemeanor of the fourth degree, and if, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, a violation of the provision is a misdemeanor of the third degree.

(4) R.C. 4511.42(A) requires the operator of a "vehicle" (see **COMMENT 4**), streetcar, or trackless trolley intending to turn to the left within an intersection or into an alley, private road, or driveway to yield the right-of-way to any vehicle, streetcar, or trackless trolley approaching from the opposite direction, whenever the approaching vehicle, streetcar, or trackless trolley is within the intersection or so close to the intersection, alley, private road, or driveway as to constitute an immediate hazard.

Currently, R.C. 4511.42(B) provides that, except as otherwise described in this paragraph, a violation of R.C. 4511.42(A) is a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one "predicate motor vehicle or traffic offense" (see **COMMENT 5**), a violation of the provision is a misdemeanor of the fourth degree, and if, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, a violation of the provision is a misdemeanor of the third degree.

(5) R.C. 4511.43(A) provides that, except when directed to proceed by a law enforcement officer, every driver of a "vehicle" (see **COMMENT 4**) or trackless trolley approaching a stop sign is required to stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver must yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.

R.C. 4511.43(B) provides that the driver of a vehicle or trackless trolley approaching a yield sign must slow down to a speed reasonable for the existing conditions and, if required for safety to stop, must stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver must yield the right-of-way to any vehicle or trackless trolley in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways. Whenever a driver is involved in a collision with a vehicle or trackless trolley in the intersection or junction of roadways, after driving past a yield sign without stopping, the collision is prima-facie evidence of the driver's failure to yield the right-of-way.

Existing R.C. 4511.43(C) provides that, except as otherwise described in this paragraph, a violation of any provision of R.C. 4511.43 is a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one "predicate motor vehicle or traffic offense" (see **COMMENT 5**), the violation is a misdemeanor of the fourth degree, and if, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, the violation is a misdemeanor of the third degree.

(6) R.C. 4511.431(A) requires the driver of a "vehicle" (see **COMMENT 4**) or trackless trolley emerging from an alley, building, private road, or driveway within a business or residence district to stop the vehicle or trackless trolley immediately prior to driving onto a sidewalk or onto the sidewalk area extending across the alley, building entrance, road, or driveway, or in the event there is no sidewalk area, to stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon.

Under existing R.C. 4511.431(B), except as otherwise described in this paragraph, a violation of R.C. 4511.431(A) is a minor misdemeanor. If, within

one year of the offense, the offender previously has been convicted of or pleaded guilty to one "predicate motor vehicle or traffic offense" (see **COMMENT 5**), a violation of the provision is a misdemeanor of the fourth degree, and if, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, a violation of the provision is a misdemeanor of the third degree.

(7) R.C. 4511.44(A) provides that the operator of a "vehicle" (see **COMMENT 4**), streetcar, or trackless trolley about to enter or cross a highway from any place other than another roadway must yield the right-of-way to all traffic approaching on the roadway to be entered or crossed.

Currently, R.C. 4511.44(B) specifies that, except as otherwise described in this paragraph, a violation of R.C. 4511.44(A) is a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one "predicate motor vehicle or traffic offense" (see **COMMENT 5**), the violation is a misdemeanor of the fourth degree, and if, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, the violation is a misdemeanor of the third degree.

(8) R.C. 4511.441(A) requires the driver of a "vehicle" (see **COMMENT 4**) to yield the right-of-way to any pedestrian on a sidewalk.

Existing R.C. 4511.441(B) provides that, except as otherwise described in this paragraph, a violation of R.C. 4511.441(A) is a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one "predicate motor vehicle or traffic offense" (see **COMMENT 5**), a violation of the provision is a misdemeanor of the fourth degree, and if, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, a violation of the provision is a misdemeanor of the third degree.

(9) R.C. 4511.45(A)(1) provides that, upon the approach of a public safety vehicle or coroner's vehicle, equipped with at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and the driver is giving an audible signal by siren, exhaust whistle, or bell, no driver of any other "vehicle" (see **COMMENT 4**) may fail to yield the right-of-way, or to immediately drive if practical to a position parallel to, and as close as possible to, the right edge or curb of the highway clear of any intersection, and stop and remain in that position until the public safety vehicle or coroner's vehicle has passed, except when otherwise directed by a police officer. R.C. 4511.45(A)(2) provides that, upon the approach of a public safety vehicle or coroner's vehicle, as stated in the preceding sentence,

no operator of any streetcar or trackless trolley may fail to immediately stop the streetcar or trackless trolley clear of any intersection and keep it in that position until the public safety vehicle or coroner's vehicle has passed, except when otherwise directed by a police officer.

Under R.C. 4511.45(B) and (C), the provisions described in the preceding paragraph do not relieve the driver of a public safety vehicle or coroner's vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway, and the provision apply to a coroner's vehicle only when the vehicle is operated in accordance with R.C. 4513.171.

Currently, R.C. 4511.45(D) provides that, except as otherwise described in this paragraph, a violation of R.C. 4511.45(A)(1) or (2) is a misdemeanor of the fourth degree "on a first offense." On a second offense within one year after the first offense, the violation is a misdemeanor of the third degree, and, on each subsequent offense within one year after the first offense, the violation is a misdemeanor of the second degree.

(10) R.C. 4511.451(B) provides that, excepting public safety vehicles proceeding in accordance with R.C. 4511.45 or when directed otherwise by a police officer, pedestrians and the operators of all "vehicles" (see **COMMENT 4**), streetcars, and trackless trolleys must yield the right-of-way to each vehicle that is a part of a "funeral procession" (see below). Whenever the lead vehicle in a funeral procession lawfully enters an intersection, the remainder of the vehicles in the procession may continue to follow the lead vehicle through the intersection notwithstanding any traffic control devices or right-of-way provisions of the Revised Code, provided that the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian. R.C. 4511.45(C) prohibits a person from operating any vehicle as a part of a funeral procession without having the headlights of the vehicle lighted and without displaying a pennant in the manner described in the definition of "funeral procession." As used in these provisions, "funeral procession" means two or more vehicles accompanying the cremated remains or the body of a deceased person in the daytime when each of the vehicles has its headlights lighted and is displaying a purple and white or an orange and white pennant attached to each vehicle in such a manner as to be clearly visible to traffic approaching from any direction.

Currently, the second R.C. 4511.451(D) provides that, except as otherwise described in this paragraph, a violation of any provision of R.C. 4511.45 is a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one "predicate motor vehicle or traffic offense" (see **COMMENT 5**), the violation is a misdemeanor of the fourth degree, and if, within one year of the offense, the offender previously has been convicted

of two or more predicate motor vehicle or traffic offenses, the violation is a misdemeanor of the third degree.

(11) R.C. 4511.46(A) provides that, when traffic control signals are not in place, not in operation, or are not clearly assigning the right-of-way, the driver of a "vehicle" (see **COMMENT 4**), trackless trolley, or streetcar must yield the right-of-way, slowing down or stopping if need be to so yield or if required by R.C. 4511.132, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger (this requirement does not apply under the conditions stated in R.C. 4511.48(B)). R.C. 4511.46(B) prohibits a pedestrian from suddenly leaving a curb or other place of safety and walking or running into the path of a vehicle, trackless trolley, or streetcar which is so close as to constitute an immediate hazard. R.C. 4511.46(D) provides that, whenever any vehicle, trackless trolley, or streetcar is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle, trackless trolley, or streetcar approaching from the rear cannot overtake and pass the stopped vehicle.

Under current R.C. 4511.46(E), except as otherwise described in this paragraph, a violation of any provision described in the preceding paragraph is a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one "predicate motor vehicle or traffic offense" (see **COMMENT 5**), a violation of any of those provisions is a misdemeanor of the fourth degree, and if, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, a violation of any of those provisions is a misdemeanor of the third degree.

(12) R.C. 4511.47(A) provides that the driver of every "vehicle" (see **COMMENT 4**) must yield the right-of-way to every "blind pedestrian" (see below) guided by a guide dog, or carrying a cane which is predominantly white or metallic in color, with or without a red tip. R.C. 4511.47(B) prohibits a person, other than a "blind person" (see below), while on any public highway, street, alley, or other public thoroughfare from carrying a white or metallic cane with or without a red tip. As used in these provisions, "blind person" or "blind pedestrian" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200 but with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

Existing R.C. 4511.47(C) provides that, except as otherwise described in this paragraph, a violation of any provision in R.C. 4511.47 is a minor

misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one "predicate motor vehicle or traffic offense" (see **COMMENT 5**), the violation is a misdemeanor of the fourth degree, and if, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, the violation is a misdemeanor of the third degree.

COMMENT

1. Existing R.C. 2901.01 (not in the bill) provides that, as used in the Revised Code, "serious physical harm to persons" means any of the following: (a) any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment, (b) any "physical harm" (see below) that carries a substantial risk of death, (c) any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity, (d) any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement, or (e) any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain. The section also provides that, as used in the Revised Code, "physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

2. Under the existing Points Law, when the Registrar of Motor Vehicles determines that the total points charged against any person under R.C. 4510.036 exceed five, the Registrar must send to the person at the person's last known address, by regular mail, a warning letter that lists the reported violations that are the basis of the points charged and the number of points charged for each violation and outlines the Law's suspension provisions. When the Registrar determines that the total points charged against any person within any two-year period is equal to 12 or more, the Registrar must send to the person at the person's last known address, by regular mail, a written notice that: (a) lists the reported violations that are the basis of the points charged and the number of points charged for each violation, (b) states that, because the total number of points charged against the person within the applicable two-year period is equal to 12 or more, the Registrar is imposing a Class D suspension of the person's driver's or commercial driver's license or permit or nonresident operating privileges (under R.C. 4510.02(B)(4), a Class D suspension is for a period of six months), and (c) states that the suspension is effective on the 20th day after the mailing of the notice, unless the person appeals the determination and suspension in a specified court. By filing the appeal of the determination and suspension, the person agrees to pay the cost of the proceedings in the appeal of the determination and suspension and alleges that

the person can show cause why the license, permit, or privileges should not be suspended.

Any person against whom at least two but less than 12 points have been charged under R.C. 4510.036 may enroll in a course of remedial driving instruction approved by the Director of Public Safety. Upon the person's completion of an approved course of remedial driving instruction, the person may apply to the Registrar for a credit of two points on the person's driving record. Upon receipt of the application and proof of completion of the approved remedial driving course, the Registrar must approve the two-point credit, except that: (a) the Registrar cannot not approve any credit for a person who completes a course of remedial driving instruction pursuant to a judge's order under R.C. 4510.02, (b) in any three-year period, the Registrar may approve only one two-point credit on a person's driving record, and (c) the Registrar may approve not more than five two-point credits on a person's driving record under this provision during that person's lifetime.

When a judge suspends a person's driver's or commercial driver's license or permit or nonresident operating privilege and charges points against the person under R.C. 4510.036 for the offense that resulted in the suspension, the Registrar must credit that period of suspension against the time of any subsequent Points Law suspension for which those points were used to impose the subsequent suspension. A similar provision applies when a U.S. district court with jurisdiction within Ohio suspends a person's driver's or commercial driver's license or permit or nonresident operating privileges pursuant to federal law and charges points against the person under R.C. 4510.036 for the offense that resulted in the suspension.

The existing Points Law sets forth procedures that apply when a licensee whose license, permit, or operating privilege has been suspended files a petition appealing the determination and suspension, as described above. If the court determines from the evidence submitted that the person who filed the petition has failed to show cause why his or her license, permit, or operating privileges should not be suspended, the court must assess against the person the cost of the proceedings in the appeal and must impose the applicable suspension under the Points Law or suspend all or a portion of the suspension and impose any conditions upon the person that the court considers proper or impose upon the person a community control sanction. If the court determines from the evidence submitted that the person has shown cause why his or her license, permit, or operating privileges should not be suspended, the costs of the appeal proceeding are paid out of the county treasury of the county in which the proceedings were held.

A person whose license, permit, or operating privileges are suspended under the Points Law is not entitled to apply for or receive a new license or permit or to request or be granted nonresident operating privileges during the effective period of the suspension. Upon the termination of a suspension or another penalty imposed under the Points Law involving the surrender of a license or permit and upon the request of the person whose license or permit was suspended, the Registrar must return it to the person upon determining that the person has complied with the provisions described in the second succeeding paragraph, or, if the Registrar destroyed the license or permit, must reissue it to the person.

A person whose license, permit, or operating privileges are suspended under the Points Law and who, during the suspension, operates any motor vehicle upon any public roads and highways is guilty of a misdemeanor of the first degree, and the court must sentence the offender to a minimum term of three days in jail. No court may suspend the first three days of jail time imposed pursuant to this provision.

A person whose license or permit is suspended, or who is granted limited driving privileges, under the Points Law is not eligible to retain the license, or to have the driving privileges reinstated, until each of the following has occurred: (a) the person successfully completes a course of remedial driving instruction approved by the Director of Public Safety (a minimum of 25% of the number of hours of instruction included in the course must be devoted to instruction on driver attitude, and a minimum of 25% of the number of hours of instruction included in the course must be devoted to instruction in the area of alcohol and drugs and the operation of vehicles, which instruction must include, but not be limited to, a review of the laws governing the operation of a motor vehicle while under the influence of alcohol, drugs, or a combination of them, the dangers of operating a motor vehicle while under the influence of alcohol, drugs, or a combination of them, and other information relating to the operation of motor vehicles and the consumption of alcoholic beverages and use of drugs), (b) the person is examined in the manner provided for in R.C. 4507.20, and found by the Registrar to be qualified to operate a motor vehicle, and (c) the person gives and maintains proof of financial responsibility, in accordance with R.C. 4509.45. (Existing R.C. 4510.037 and 4510.038, not in the bill.)

3. Existing R.C. 4511.01 (not in the bill) provides that, as used in R.C. Chapters 4511. and 4513., "motor vehicle" means every "vehicle" (see **COMMENT 4**) propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires, except motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging

machinery, farm machinery, trailers used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a street or highway at a speed of 25 miles per hour or less, threshing machinery, hay-baling machinery, agricultural tractors and machinery used in the production of horticultural, floricultural, agricultural, and vegetable products, and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of 25 miles per hour or less.

4. Existing R.C. 4511.01 (not in the bill) provides that, as used in R.C. Chapters 4511. and 4513., "vehicle" means every device, including a motorized bicycle, in, upon, or by which any person or property may be transported or drawn upon a highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, any device that is moved by power collected from overhead electric trolley wires or that is used exclusively upon stationary rails or tracks, or any device, other than a bicycle, that is moved by human power.

5. Existing R.C. 4511.01 (not in the bill) provides that, as used in R.C. Chapters 4511. and 4513., "predicate motor vehicle or traffic offense" means any of the following: (a) a violation of R.C. 4511.03, 4511.051, 4511.12, 4511.132, 4511.16, 4511.20, 4511.201, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.451, 4511.452, 4511.46, 4511.47, 4511.48, 4511.481, 4511.49, 4511.50, 4511.511, 4511.53, 4511.54, 4511.55, 4511.56, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.66, 4511.661, 4511.68, 4511.70, 4511.701, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, 4511.73, 4511.763, 4511.771, 4511.78, or 4511.84, (b) a violation of R.C. 4511.17(A)(2), 4511.51(A) to (D), or 4511.74(A), (c) a violation of any provision of R.C. 4511.01 to 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated, or (d) a violation of a municipal ordinance substantially similar to any section or provision set forth or described in clause (a), (b), or (c) of this paragraph.

HISTORY

ACTION

DATE

Introduced

05-02-07

s0158-i-127.doc/kl

