



# Ohio Legislative Service Commission

## Bill Analysis

John Rau

### H.B. 353

128th General Assembly  
(As Introduced)

**Reps.** Huffman and Letson, Boose, Morgan, Derickson, Uecker, J. Adams, Stebelton

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## BILL SUMMARY

- Authorizes school districts to sell commercial advertising space on the outside of school buses.
- Prohibits the Departments of Public Safety and Education from adopting rules for school bus operation that prevent the sale of the advertising.
- Prohibits the State Highway Patrol from not approving a school bus during the annual inspection solely because advertising is displayed on the outside surface of the bus in the manner permitted by the bill.

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## CONTENT AND OPERATION

### Authorization of advertising on school buses

(R.C. 3327.20)

The bill authorizes a school district board of education to adopt a resolution for procedures to solicit and sell commercial advertising space on the outside surface of either side of a school bus owned by the district. The bill also specifies that, if the board leases a school bus that it operates or if it contracts for student transportation services on a privately owned school bus, the board may negotiate a provision of the lease or contract under which the board may sell commercial advertising space on the bus. In either case, the advertisements must be in the form of a sign attached to the bus; no advertisement may be painted on the bus surface. In addition, the district board's resolution must:

- (1) Limit the sale of advertising space only to for-profit entities;

(2) Prohibit the sale of advertising space for alcohol, tobacco, gambling, or anything of a sexual nature or for the support or opposition of a candidate for public office, a public office or public official, or the passage of a levy, bond issue, or other election issue;<sup>1</sup> and

(3) Provide for the establishment of a committee made up of district administrators and attorneys to approve all school bus advertisements sold by the district.

Moreover, the bill provides that, if a district board donates the use of advertising space on a school bus or uses that space itself for advertising, it may not permit any advertisement for a purpose for which it cannot sell an advertisement to a for-profit entity, as described in (2) above.

### **School bus standards and inspections**

(R.C. 4511.76 and 4511.761)

The bill prohibits both the Department of Public Safety and the Department of Education from adopting rules that would prevent commercial advertising on the side of a school bus, in the form contemplated by the bill. Similarly, the bill prohibits the State Highway Patrol from not approving a school bus during the annual inspection solely because of commercial advertising displayed on the outside surface of the bus.

#### **Background--current law**

By state statute, all school buses must (1) be painted "national school bus yellow," (2) be marked with the words "school bus" in black on the front and rear of the bus, (3) be marked with the word "stop" in black on the rear of the bus, and (4) bear a permanent identification number marked in black on the front and rear of the bus. It also must have specific signs and flashing lights to warn other motorists when the bus is stopped to load and unload passengers.<sup>2</sup> In addition, each bus must pass an annual

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<sup>1</sup> Under R.C. 9.03 and 3315.07(C) (neither section in the bill), it is unlawful for a school district board to use district funds to publish, distribute, or otherwise communicate information that supports or opposes the nomination or election of a candidate for public office, the investigation, prosecution, or recall of a public official, or the passage of a levy or bond issue. However, a board may permit its employees to attend public meetings during regular working hours for the purpose of presenting information about school finances and activities and board actions, even if the purpose of the meeting is to discuss or debate the passage of a school levy or bond issue. In a 1991 opinion, the Ohio Attorney General advised that, under current law, a school district may allow groups to post political signs on district property for a fee, so long as the district's policy is neutral with respect to various viewpoints (1991 Opinions of the Attorney General No. 064).

<sup>2</sup> R.C. 4511.75, 4511.764, 4511.77, and 4511.771, none in the bill.

inspection by the State Highway Patrol.<sup>3</sup> These statutory requirements appear to conform to the student transportation safety guidelines adopted by the National Highway Traffic Safety Administration. Also the Department of Public Safety must adopt rules relating to school bus construction, design, and equipment, and the Department of Education must adopt rules governing the operation of all vehicles used for student transportation.<sup>4</sup>

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## COMMENT

It appears that a school district board has the general authority to sell advertising space on its property. This authority likely is part of a board's general powers to manage and control the schools of the district under R.C. 3313.47 and its duty to adopt reasonable rules for their governance under R.C. 3313.20 (neither section appears in the bill). Therefore, it appears that a district might be able to sell advertising on the side of a school bus, were it not for possible administrative proscriptions governing school bus standards and inspections. The bill addresses these considerations by prohibiting the Departments of Education and Public Safety from adopting rules that prohibit advertising on the side of a school bus and by prohibiting the State Highway Patrol from rejecting a school bus during its annual inspection solely because of such advertising. Presumably, the bill permits advertisements that do not interfere with the markings and equipment of a school bus otherwise required by state statute and federal standards.

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## HISTORY

ACTION	DATE
Introduced	11-05-09

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<sup>3</sup> R.C. 4511.761.

<sup>4</sup> R.C. 4511.76(A) and (B).

