

ADOPTING ORDINANCE  
TRAFFIC

City of Gahanna

State of Ohio

ORDINANCE No. \_\_\_\_\_

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES, CITY OF GAHANNA, OHIO, 1970 TO PROVIDE AMENDMENTS TO PART 3 TRAFFIC SECTIONS 303.082, 303.100, 303.101, 331.28, 331.35, 331.37, 333.01, 333.03, 333.11, 335.09, 335.10, 335.11, 337.22, 341.01, 351.03, 351.04, 371.071, 373.01, 373.015, 373.016, 373.03, 373.22, 377.02, 377.05, 377.07; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Gahanna, Ohio is authorized by ORC § 715.01 to adopt ordinances relating to its property, affairs and local government;

BE IT ORDAINED BY THE CITY OF GAHANNA, STATE OF OHIO:

Section 1. That the Codified Ordinances of the City of Gahanna, Ohio, 1970 is hereby amended by adding or amending the provisions as provided under Section 6, below.

Section 2. The addition, amendment, or removal of provisions in the Codified Ordinances of the City of Gahanna, Ohio, 1970 sections when passed in such form as to indicate the intention of the governing authority of the City of Gahanna, Ohio to make the same a part of the Codified Ordinances of the City of Gahanna, Ohio, 1970 shall be deemed to be incorporated in the Codified Ordinances of the City of Gahanna, Ohio, 1970, so that reference to the Codified Ordinances of the City of Gahanna, Ohio, 1970 includes the additions, amendments, and removals.

Section 3. The codifier, meaning the person, agency or organization authorized to prepare the supplement to the Codified Ordinances of the City of Gahanna, Ohio, 1970, is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the Codified Ordinances of the City of Gahanna, Ohio, 1970.

Codifier: Added material is underlined, deleted material is struck through.

Section 4. Supplementation of Code.

(a) In preparing a supplement to the Codified Ordinances of the City of Gahanna, Ohio, 1970, all portions of this ordinance which have been repealed shall be excluded from the Codified Ordinances of the City of Gahanna, Ohio, 1970 by the omission thereof from reprinted pages.

(b) When preparing a supplement to the Codified Ordinances of the City of Gahanna, Ohio, 1970, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make formal, non-substantive changes in this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Codified Ordinances of the City of Gahanna, Ohio, 1970 printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Codified Ordinances of the City of Gahanna, Ohio, 1970 and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Codified Ordinances of the City of Gahanna, Ohio, 1970 which embody the substantive sections or the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Codified Ordinances of the City of Gahanna, Ohio, 1970; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Codified Ordinances of the City of Gahanna, Ohio, 1970.

(c) In preparing a supplement to the Codified Ordinances of the City of Gahanna, Ohio, 1970, the pages of a supplement shall be so numbered that they will fit properly into the Codified Ordinances of the City of Gahanna, Ohio, 1970 and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Codified Ordinances of the City of Gahanna, Ohio, 1970 will be current through the date of the adoption of the latest ordinance included in the supplement.

Section 5. Provisions of Section 6 that duplicate or track State statutes which do not become effective until after the effective date of this ordinance, shall not take effect until such statutes take effect.

Section 6. The following sections and subsections of the Codified Ordinances of the City of Gahanna, Ohio, 1970 are new or have been amended with new matter in the Codified Ordinances of the City of Gahanna, Ohio, 1970, and are hereby approved, adopted and enacted:

### 303.082 PRIVATE TOW-AWAY ZONES.

(A) The owner of private property may establish a private tow-away zone, but may do so only if all of the following conditions are satisfied:

(1) The owner posts on the owner's property a sign, that is at least 18 inches by 24 inches in size, that is visible from all entrances to the property, and that includes all of the following information:

- (a) A statement that the property is a tow-away zone;
- (b) A description of persons authorized to park on the property. If the property is a residential property, the owner of the private property may include on the sign a statement that only tenants and guests may park in the private tow-away zone, subject to the terms of the property owner. If the property is a commercial property, the owner of the private property may include on the sign a statement that only customers may park in the private tow-away zone. In all cases, if it is not apparent which persons may park in the private tow-away zone, the owner shall include on the sign the address of the property on which the private tow-away zone is located, or the name of the business that is located on the property designated as a private tow-away zone.
- (c) If the private tow-away zone is not enforceable at all times, the times during which the parking restrictions are enforced;
- (d) The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night;
- (e) A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle as provided in division (B) of ORC 4505.101.

In order to comply with the requirements of subsection ~~(B)~~(A)(1) of this section, ~~such a~~ the owner of a private property ~~owner~~ may modify ~~the an~~ existing sign by affixing to the existing sign stickers or an addendum in lieu of replacing the sign.

(2) A towing service ensures that a vehicle towed under this section is taken to a location from which it may be recovered that complies with all of the following:

- (a) It is located within 25 linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within 25 linear miles.
- (b) It is well-lighted.

- (c) It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available where the private tow-away zone is located.
- (B) (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with subsection (A) of this section, without the consent of the owner of the property or in violation of any posted parking condition or regulation, the owner of the private property may cause the removal of the vehicle by a towing service. The towing service shall remove the vehicle in accordance with this section. The vehicle owner and the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established ~~under subsection (G) of this section~~ by the public utilities commission in rules adopted under ORC 4921.25, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed as provided in ORC 4505.101. The owner or lienholder of a vehicle that has been removed under this section, subject to subsection (C) of this section, may recover the vehicle in accordance with subsection (G) of this section.
- (2) If a city requires tow trucks and tow truck operators to be licensed, no owner of a private property located within the city shall cause the removal and storage of any vehicle pursuant to subsection (B) of this section by an unlicensed tow truck or unlicensed tow truck operator.
- (3) No towing service shall remove a vehicle from a private tow-away zone except pursuant to a written contract for the removal of vehicles entered into with the owner of the private property on which the private tow-away zone is located.
- (C) If the owner or operator of a vehicle that is being removed under authority of subsection (B) of this section, arrives after the vehicle has been prepared for removal, but prior to the actual removal from the property, the towing service shall give the vehicle owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the vehicle established ~~under subsection (G) of this section~~ by the public utilities commission in rules adopted under ORC 4921.25, in order to obtain release of the vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner or in violation of any posted parking condition or regulation.
- (D) (1) Prior to towing a vehicle under subsection (B) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (A) of this section.
- The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least 30 days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was towed, whichever is earlier.
- (2) A towing service shall deliver a vehicle towed under subsection (B) of this section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.

- (E) (1) If an owner of private property that is established as a private tow-away zone in accordance with subsection (A) of this section causes the removal of a vehicle from that property by a towing service under subsection (B) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the Police Department concerning all of the following:
- (a) The vehicle's license number, make, model and color;
  - (b) The location from which the vehicle was removed;
  - (c) The date and time the vehicle was removed;
  - (d) The telephone number of the person from whom the vehicle may be recovered;
  - (e) The address of the place from which the vehicle may be recovered.
- (2) The Chief of Police shall maintain a record of any vehicle removed from private property in the Chief's jurisdiction that is established as a private tow-away zone of which the Chief has received notice under this section. The record shall include all information submitted by the towing service. The Chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator or lienholder of the vehicle, and requests information pertaining to the vehicle.
- (F) (1) When a vehicle is removed from private property in accordance with this section, within three business days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made of either of the following to ascertain the identity of the owner and any lienholder of the vehicle:
- ~~(a) The records of the Bureau of Motor Vehicles to ascertain the identity of the owner and any lienholder of the motor vehicle;~~
  - (b) The records of any vendor or vendors, approved by the registrar of motor vehicles, that are capable of providing real-time access to owner and lienholder information. The registrar of motor vehicles  
The towing service or storage facility may search the national motor vehicle title information system in order to determine the state in which the vehicle is titled. The entity that provides the record of the owner and any lienholder under this subsection shall ensure that such information is provided in a timely manner.
- ~~(2) Subject to subsection (F)(4) (5) of this section, the owner of the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:~~
- ~~(a) Within five business days after the registrar of motor vehicles applicable entity provides the identity of the owner and any lienholder of the motor vehicle, if the vehicle remains unclaimed, to the owner's and lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt;~~
  - ~~(b) If the vehicle remains unclaimed 30 days after the first notice is sent, in the manner authorized in subsection (F)(1)(a) (F)(2)(a) of this section;~~
- ~~(2) (3) Sixty days after any notice sent pursuant to subsection (F)(1)(2) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the owner of a towing service or storage facility, if authorized under subsection division (B) of ORC 4505.101, may initiate the process for obtaining a certificate of title to the motor vehicle as provided in that section.~~

- ~~(3)~~ (4) A towing service or storage facility that does not receive a signed receipt of notice, or a notification that delivery was not possible, shall not obtain, and shall not attempt to obtain, a certificate of title to the motor vehicle under division (B) of ORC 4505.101.
- ~~(4)~~ (5) With respect to a vehicle concerning which a towing service or storage facility is not eligible to obtain title under ORC 4505.101, the towing service or storage facility need only comply with the initial notice required under subsection ~~(F)(4)(a)~~ (F)(2)(a) of this section.
- (G) (1) The owner or lienholder of a vehicle that is removed under subsection (B) of this section may reclaim it upon ~~all~~ both of the following:
- (a) Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle, or a lease agreement;
  - (b) Payment of the following fees:
    - (i) All applicable fees established by the public utilities commission in rules adopted under ORC 4921.25, except that the lienholder of a vehicle may retrieve the vehicle without paying any storage fee for the period of time that the vehicle was in the possession of the towing service or storage facility prior to the date the lienholder received the notice sent under subsection ~~(F)(4)(a)~~ (F)(2)(a) of this section
    - (ii) If notice has been sent to the owner and lienholder as described in subsection (f) of this section, a processing fee of \$25.00.
- (2) A towing service or storage facility in possession of a vehicle that is removed under authority of subsection (B) of this section shall show the vehicle owner, operator or lienholder who contests the removal of the vehicle all photographs taken under subsection (D) of this section. Upon request, the towing service or storage facility shall provide copies of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise.
- (3) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under ORC 4513.611.
- (4) Upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle, or a lease agreement, the owner of a vehicle that is removed under authority of subsection (B) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. The owner of the vehicle shall not retrieve any personal items from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability. For purposes of subsection (G) ~~(3-4)~~ of this section, "personal items" do not include any items that are attached to the vehicle.
- (H) No person shall remove, or cause the removal of any vehicle from private property that is established as a private tow-away zone under this section, ~~or~~ or store such a vehicle other than in accordance with this section, or otherwise fail to comply with any applicable requirement of this section.
- (I) This section does not affect or limit the operation of ORC 4513.60 or ORC 4513.61 to 4613.65 as they relate to property other than private property that is established as a private tow-away zone under subsection (A) of this section.
- (J) Whoever violates subsection (H) of this section is guilty of a minor misdemeanor.
- (K) As used in this section, "owner of a private property" or "owner of the private property" includes, with respect to a private property, any of the following:
- (1) Any person who holds title to the property;

- (2) Any person who is a lessee or sublessee with respect to a lease or sublease agreement for the property;
- (3) A person who is authorized to manage the property;
- (4) A duly authorized agent of any person listed in divisions (K)(1) to (3) of this section.

(Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

**State Law reference—** (ORC 4513.601)

**303.100 ENHANCED PENALTY FOR COMMITTING MOVING VIOLATION WHILE DISTRACTED IF DISTRACTION IS CONTRIBUTING FACTOR TO COMMISSION OF VIOLATION.**

(A) As used in this section and each section referenced in subsection (B) of this section, all of the following apply:

(1) "Distracted" means doing either of the following while operating a vehicle:

(a) Using a ~~handheld~~ an electronic wireless communications device, as defined in ORC ~~4511.204~~ 4511.991, ~~except when utilizing any of the following:~~

~~(i) The device's speakerphone function;~~

~~(ii) A wireless technology standard for exchanging data over short distances;~~

~~(iii) A "voice-operated or hands-free" device that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;~~

~~(iv) Any device that is physically or electronically integrated into the motor vehicle in violation of that section.~~

(b) Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.

(2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of ORC 4511.84.

(3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage, or a circumstance affecting the health or safety of individuals.

(B) As used in subsection (A)(3) of this section:

(1) "Utility" means an entity specified in division (A), (C), (D), (E), or (G) of ORC 4905.03.

(2) "Utility service vehicle" means a vehicle owned or operated by a utility.

~~(C)~~ B If an offender violates ORC 4511.03, 4511.051, 4511.12, 4511.121, 4511.132, 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, 4511.44, 4511.441, 4511.451, 4511.46, 4511.47, 4511.54, 4511.55, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, or 4511.73 or a substantially equivalent municipal ordinance while distracted and the

Commented [EM1]: 4511.991 defines "distracted"

distracting activity is a contributing factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding ORC 2929.28, is subject to an additional fine of not more than \$100.00 as follows:

- (1) Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation, or summons for a violation of any of the aforementioned sections of the Revised Code that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation, or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of \$100.00.

In lieu of payment of the additional fine of \$100.00, the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the director of public safety. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of \$100.00, so long as the offender submits to the court both the offender's payment in full and such written evidence.

- (2) If the offender appears in person to contest the ticket, citation, or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than \$100.00.

If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than \$100.00, the court shall inform the offender that, in lieu of payment of the additional fine of not more than \$100.00, the offender instead may elect to attend the distracted driving safety course described in subsection (b)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than \$100.00, so long as the offender submits to the court the offender's payment and such written evidence.

(C) If a law enforcement officer issues an offender a ticket, citation, or summons for a violation of any of the sections of the Revised Code listed in subsection (B) of this section that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the officer shall do both of the following:

(1) Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;

(2) Ensure that such report indicates the offender's race.

(Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

State law reference, similar provisions—(ORC 4511.991)



**303.101. Distracted Driver Report.**

(A) A law enforcement agency shall compile the information from reports submitted in accordance with Division (C)(2) of ORC section 4511.204, ~~and section 303.100(C)~~ (Division (C) of ORC section 4511.991), and any substantially equivalent municipal ordinances . Every other month, the agency shall prepare a report that describes the number and race of the offenders who received a ticket, citation, or summons under those sections during the prior two months. Upon completion of the report, the agency shall send the report to the attorney general.

(B) The attorney general shall complete an annual report that is based on the reports submitted by law enforcement agencies under subsection (A) of this section (division (A) of ORC § 4511.992) pursuant to ORC section 4511.992, during the prior one-year period. The report shall describe both of the following:

(1) The total number of offenders by race who received a ticket, citation, or summons for each of the following:

(a) A violation of division (A) of ORC § 4511.204 that indicates that the offender operated a motor vehicle while using an electronic wireless communication device;

(b) A violation of any of the sections of the Revised Code listed in section 303.100(C) (division (B) of ORC § 4511.991) that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation.

(2) The information specified under subsection (B)(1) of this section (division (B) (1) of ORC § 4511.992) listed by law enforcement agency.

State law reference, similar provisions—ORC 4511.992.

**331.28 DRIVING OVER FIRE HOSE.**

- (a) No vehicle shall, without the consent of the Fire Chief or fire official in command, be driven over any unprotected fire hose that is laid down on any street or private driveway to be used at any fire or alarm of fire.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of 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, whoever violates this section is guilty of 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, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under O.R.C. 4511.991.

**State Law reference—** (ORC 4511.73)

### **331.35 OCCUPYING A MOVING TRAILER OR MANUFACTURED OR MOBILE HOME.**

(a) Except as provided in subsection (B) of this section, no person shall occupy any travel trailer, fifth wheel trailer, or manufactured or mobile home while it is being used as a conveyance upon a street or highway.

(b) Subsection (A) of this section does not apply to a fifth wheel trailer when both of the following apply:

(1) Any child riding in the fifth wheel trailer is properly secured in the manner provided in ORC 4511.81.

(2) The operator of the vehicle towing the fifth wheel trailer has some means of viable communication with the passengers riding in the trailer.

As used in this section, "viable communication" includes a cellular or satellite telephone, a radio, or any other similar electronic wireless communications device.

~~(b)~~ Except as otherwise provided in this subsection, whoever violates this section is guilty of 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, whoever violates this section is guilty of 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, whoever violates this section is guilty of a misdemeanor of the third degree.

~~(d)~~ The offense established under this section is a strict liability offense and ORC 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

**State Law reference—** (ORC 4511.701)

### **331.37 DRIVING UPON SIDEWALKS, STREET LAWNS OR CURBS.**

(A) No person shall drive any vehicle, other than a bicycle or an electric bicycle if the motor is not engaged, upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

This prohibition does not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle with the motor engaged while in the performance of the officer's duties.

Nothing in this section shall be construed as prohibiting local authorities from regulating the operation of bicycles or electric bicycles within their respective jurisdictions, except that no local authority may require that bicycles or electric bicycles be operated on sidewalks. (ORC 4511.711(A))

(B) No person shall drive a vehicle on a street lawn area or the curb of a street, except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized.

(C) Except as otherwise provided in this subsection, whoever violates this section is guilty of 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, whoever violates this section is guilty of 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, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.711(B))

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.100 (ORC 4511.991).

(Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

**State Law reference**— (ORC 4511.711, ORC 4511.991)

### **333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.**

(a) (1) No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

- A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
- B. The person has a concentration of eight-hundredths of one percent or more but less than seventeen-hundredths of one percent by weight per unit volume of alcohol in the person's whole blood.
- C. The person has a concentration of ninety-six-thousandths of one percent or more but less than two hundred four-thousandths of one percent by weight per unit volume of alcohol in the person's blood serum or plasma.
- D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per 210 liters of the person's breath.
- E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per 100 milliliters of the person's urine.
- F. The person has a concentration of seventeen-hundredths of one percent or more by weight per unit volume of alcohol in the person's whole blood.
- G. The person has a concentration of two hundred four-thousandths of one percent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
- H. The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per 210 liters of the person's breath.
- I. The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per 100 milliliters of the person's urine.

J. Except as provided in subsection (m) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:

1. The person has a concentration of amphetamine in the person's urine of at least 500 nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
2. The person has a concentration of cocaine in the person's urine of at least 150 nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least 50 nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
3. The person has a concentration of cocaine metabolite in the person's urine of at least 150 nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
4. The person has a concentration of heroin in the person's urine of at least two thousand nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least 50 nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.
6. The person has a concentration of L.S.D. in the person's urine of at least 25 nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
8. Either of the following applies:
  - a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and, as measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least 15 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
  - b. As measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least 35

nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

9. The person has a concentration of methamphetamine in the person's urine of at least 500 nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
  10. The person has a concentration of phencyclidine in the person's urine of at least 25 nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.
  11. The State Board of Pharmacy has adopted a rule pursuant to Ohio R.C. 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle within this Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.
- (2) No person who, within 20 years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) ~~or (B)~~, or any other equivalent offense shall do both of the following:
- A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
  - B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.
- (b) Operation After Under-Age Consumption. No person under 21 years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
- (1) The person has a concentration of at least two-hundredths of one percent but less than eight-hundredths of one percent by weight per unit volume of alcohol in the person's whole blood.
  - (2) The person has a concentration of at least three-hundredths of one percent but less than ninety-six-thousandths of one percent by weight per unit volume of alcohol in the person's blood serum or plasma.
  - (3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per 210 liters of the person's breath.
  - (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per 100 milliliters of the person's urine.

(c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.99)

**(d) Physical Control.**

(1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.

(2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:

1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
2. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.
3. Except as provided in subsection (d)(3) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in subsection (a)(1)J. hereof.

B. No person under 21 years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.

(3) Subsection (d)(2)A.3. of this section does not apply to a person who is in physical control of a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in subsection (a)(1)J. hereof, if both of the following apply:

- A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
- B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

**(e) Evidence; Tests.**

(1) A. In any criminal prosecution or juvenile court proceeding for a violation of (a)(1)A. of this section or for any equivalent offense, that is vehicle-related the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in Ohio R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.

B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a) ~~or (b)~~ of this section or for an equivalent offense that is vehicle related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this subsection regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio R.C. 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section.

The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this section when a person submits to a blood, breath, urine or other bodily substance test at the request of a law enforcement officer under Ohio R.C. 4511.191, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this subsection may refuse to withdraw blood under this subsection, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood.

The bodily substance withdrawn under subsection (e)(1)B. hereof shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to Ohio R.C. 3701.143.

C. As used in subsection (e)(1)B. of this section, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

(2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense that is vehicle related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section, or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.

(3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis.

If the chemical test was obtained pursuant to subsection (e)(1)B. hereof, the person tested may have a physician, a registered nurse, or a qualified technician, chemist or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in division (A)(5) of Ohio R.C. 4511.191, the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in division (A)(5) of Ohio R.C. 4511.191, the form to be read to the person to be tested, as required under Ohio R.C. 4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

(4) A. As used in subsections (e)(4)B. and C. of this section, "national highway traffic safety administration" means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.

- B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a), (b) or (d) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine, if a law enforcement officer has administered a field sobriety test to the operator or person in physical control of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:
1. The officer may testify concerning the results of the field sobriety test so administered.
  2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
  3. If testimony is presented or evidence is introduced under subsection (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
- C. Subsection (e)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (e)(4)B. of this section. (ORC 4511.19; 4511.194)

(f) Forensic Laboratory Reports.

- (1) Subject to subsection (f)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)B., C., D., E., F., G., H., I., or J. or (b)(1), (2), (3) or (4) of this section or for an equivalent offense that is substantially equivalent to any of those subsections, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this subsection that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this subsection shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:
- A. The signature, under oath, of any person who performed the analysis;
  - B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;
  - C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;
  - D. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.



- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (f)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.
- (3) A report of the type described in subsection (f)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.
- (g) Immunity From Liability For Withdrawing Blood. Except as otherwise provided in this subsection, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this subsection also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this subsection is not available to a person who withdraws blood if the person engaged in willful or wanton misconduct.

As used in this subsection, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

(h) General OVI Penalty.

- (1) Whoever violates any provision of subsections (a)(1)A. to I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under Ohio R.C. Chapter 2929, and this Traffic Code, except as otherwise authorized or required by subsections (h)(1)A. to E. of this section:

A. Except as otherwise provided in subsections (h)(1)B., C., D. or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsections (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of three consecutive days. As used in this subsection, three consecutive days means 172 consecutive hours. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this subsection if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under Ohio R.C. 5119.38.

The court also may suspend the execution of any part of the three-day jail term under this subsection if it places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 for part of the three days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to Ohio R.C. 5119.38. As used in this subsection, three consecutive days means 72 consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention program, if the offender refuses to attend a drivers' intervention program, or if the jail at which the offender is to serve the jail term imposed can provide a drivers' intervention program, the court shall sentence the offender to a mandatory jail term of at least six consecutive days.

The court may require the offender, under a community control sanction imposed under Ohio R.C. 2929.25, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services, in addition to the required attendance at drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

3. In all cases, a fine of not less than \$375.00 and not more than \$1,075.00.
  4. In all cases, a class five license suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.
- B. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to one violation of subsection (a) or (b) of this section or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the following:
1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol

monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of 20 consecutive days. The court shall impose the 20-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the 20-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than \$525.00 and not more than \$1,625.00.
  4. In all cases, a class four 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)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
  5. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for 90 days in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for 90 days. (ORC 4511.193)
- C. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) or (b) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:
1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of 30 consecutive days. The court shall impose the 30-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a

jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the 30-day mandatory jail term. Notwithstanding the jail terms set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, a mandatory jail term of 60 consecutive days. The court shall impose the 60-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of electronically monitored house arrest with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the 60-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
  3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than \$850.00 and not more than \$2,750.00.
  4. In all cases, a class three 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)(3) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
  5. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)
  6. In all cases, the court shall order the offender to participate with a community addiction services provider authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The operator of the services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.
- D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) ~~or (b)~~ of this section or other equivalent offenses or an offender who, within 20 years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature, or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in ORC 2941.1413 is guilty of a felony of the fourth degree and shall be prosecuted under appropriate state law. (ORC 4511.19(G)(1)(d))
- E. An offender who previously has been convicted of or pleaded guilty to a violation of ORC 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree and shall be prosecuted under appropriate state law. (ORC 4511.19(G)(1) (e))

- (2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Ohio R.C. 4511.191.
- (3) If an offender is sentenced to a jail term under subsection (h)(1)B.1. or 2. or (h)(1)C.1. or 2. of this section and if, within 60 days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the 60-day period following the date of sentencing, the court may impose an alternative sentence under this subsection that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.

As an alternative to a mandatory jail term of ten consecutive days required by subsection (h)(1)B.1. of this section, the court, under this subsection, may sentence the offender to five consecutive days in jail and not less than 18 consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the five consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of 20 consecutive days required by subsection (h)(1)B.2. of this section, the court, under this subsection, may sentence the offender to ten consecutive days in jail and not less than 36 consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to a mandatory jail term of 30 consecutive days required by subsection (h)(1)C.1. of this section, the court, under this subsection, may sentence the offender to 15 consecutive days in jail and not less than 55 consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the 15 consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed one year. The 15 consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of 60 consecutive days required by subsection (h)(1)C.2. of this section, the court, under this subsection, may sentence the offender to 30 consecutive days in jail and not less than 110 consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the 30 consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The 30 consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance

with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.

- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding \$5,000.00 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.
- (7) As used in subsection (h) of this section, "electronic monitoring", "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in Ohio R.C. 2929.01.
- (i) Vehicle Operation After Underage Alcohol Consumption Penalty. Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:
- (1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six 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)(6) of Ohio R.C. 4510.02.
  - (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) ~~or (b)~~ of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four 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)(4) of Ohio R.C. 4510.02.
  - ~~(3) If the offender also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1416 and if the court imposes a jail term for the violation of subsection (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of Ohio R.C. 2929.24.~~
  - ~~(4) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28, in an amount not exceeding \$5,000.00 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the violation of subsection (b) of this section. (ORC 4511.19(H))~~
- (j) Physical Control Penalty. Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions

imposed, the court may impose on the offender a class seven 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 Ohio R.C. 4510.02. (ORC 4511.194)

(k) Compliance With Ohio R.C. Chapter 5119 Standards.

(1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services.

(2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

(l) Appeal Does Not Stay Operation of License Suspension. If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

(m) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:

(1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(o) Conflict of Terms. All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)

(p) Indigent Drivers Alcohol Treatment Fund. Twenty-five dollars of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drivers alcohol treatment fund pursuant to Ohio R.C. 4511.193. (ORC 4511.193)

(q) Definitions. As used in this section:

(1) *Equivalent offense* means any of the following:

A. A violation of division (A) ~~or (B)~~ of Ohio R.C. 4511.19;

B. A violation of a municipal OVI ordinance;

C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;

D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;

- E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
  - F. A violation of division (A) ~~or (B)~~ of ORC 1547.11;
  - G. A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine;
  - H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) ~~or (B)~~ of Ohio R.C. 4511.19 or division (A) ~~or (B)~~ or ORC 1547.11;
  - I. A violation of a former law of this State that was substantially equivalent to division (A) ~~or (B)~~ of ORC 4511.19 or division (A) ~~or (B)~~ of ORC 1547.11;
- (2) *Mandatory jail term* means the mandatory term in jail of three, six, ten, 20, 30, or 60 days that must be imposed under subsection (h)(1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:
- A. Except as specifically authorized under this section, the term must be served in a jail.
  - B. Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to ORC 2929.21 to 2929.28, or any other provision of the Ohio Revised Code.
- (3) *Municipal OVI ordinance* and *municipal OVI offense* mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum, or plasma, breath or urine.
- (4) *Community residential sanction, continuous alcohol monitoring, jail, mandatory prison term, mandatory term of local incarceration, sanction* and *prison term* have the same meanings as in ORC 2929.01.
- (5) *Drug of abuse* has the same meaning as in ORC 4506.01.
- (6) *Equivalent offense that is vehicle-related* means an equivalent offense that is any of the following:
- A. A violation described in subsection (q)(1), (2), (3), (4) or (5) hereof;
  - B. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) ~~or (B)~~ of ORC 4511.19;
  - C. A violation of a former law of this state that was substantially equivalent to division (A) ~~or (B)~~ of ORC 4511.19. (ORC 4511.181)



**333.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.**

- (A) No person shall operate a motor vehicle 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, and no person shall drive any motor vehicle 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.
- (B) It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to ORC 4511.21 by the Ohio Director of Transportation or Council, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:
- (1) (a) Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when 20 miles per hour school speed limit signs are erected; except, that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (B)(4) hereof and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (B)(7) hereof. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the manual and specifications for a uniform system of traffic control devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect.
- (b) As used in this section, "school" means any school chartered under ORC 3301.16 and any nonchartered school that during the preceding year filed with the Department of Education in compliance with rule 3301-35-08 of the Ohio Administrative Code, a copy of the school's report for the parents of the school's pupils certifying that the school meets Ohio minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone.
- (c) As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway. Upon request from the Municipality for streets and highways under its jurisdiction, the Ohio Director of Transportation may extend the traditional school zone boundaries. The distances in subsections (B)(1)(c)(i to iii) hereof shall not exceed 300 feet per approach per direction and are bounded by whichever of the following distances or combinations thereof the Director approves as most appropriate:
- (i) The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
- (ii) The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;
- (iii) The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of highway;
- Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in subsections (B)(1)(a) and (c) of this section.
- (d) As used in this subsection, "crosswalk" has the meaning given that term in section 301.09.

The Director may, upon request by resolution of Council, and upon submission by the Municipality of such engineering, traffic and other information as the Director considers necessary, designate a school zone on any portion of a State route lying within the Municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet on each approach direction of the State route;

- (e) As used in this section, "special elementary school" means a school that meets all of the following criteria:
  - (i) It is not chartered and does not receive tax revenue from any source.
  - (ii) It does not educate children beyond the eighth grade.
  - (iii) It is located outside the limits of a municipal corporation.
  - (iv) A majority of the total number of students enrolled at the school are not related by blood.
  - (v) The principal or other person in charge of the special elementary school annually sends a report to the superintendent of the school district in which the special elementary school is located indicating the total number of students enrolled at the school, but otherwise the principal or other person in charge does not report any other information or data to the superintendent.
- (2) Twenty-five miles per hour in all other portions of the Municipality, except on State routes outside business districts, through highways outside business districts and alleys;
- (3) Thirty-five miles per hour on all State routes or through highways within the Municipality outside business districts, except as provided in subsections (B)(4) and (6) hereof;
- (4) Fifty miles per hour on controlled-access highways and expressways within the Municipality except as provided in divisions (B)(12), (13), (14), (15), and (16) of this section;
- (5) Fifty-five miles per hour on highways outside municipal corporations, other than highways within island jurisdictions as provided in division (B)(8) of this section, highways as provided in divisions (B)(9) and (10) of this section, and highways, expressways, and freeways as provided in divisions (B)(12), (13), (14), and (16) of this section;
- (6) Fifty miles per hour on State routes within the Municipality outside urban districts unless a lower prima-facie speed is established as further provided in this section;
- (7) Fifteen miles per hour on all alleys within the Municipality;
- (8) Thirty-five miles per hour on highways outside municipal corporations that are within an island jurisdiction;
- (9) Thirty-five miles per hour on through highways, except state routes, that are outside municipal corporations and that are within a national park with boundaries extending through two or more counties;
- (10) Sixty miles per hour on two-lane state routes outside municipal corporations as established by the director under division (H)(2) of this section;
- (11) Fifty-five miles per hour at all times on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (B)(14) and (16);

- (12) Sixty miles per hour on rural expressways with traffic control signals and on all portions of rural divided highways, except as provided in divisions (B)(13) and (14) of this section;
  - (13) Sixty-five miles per hour on all rural expressways without traffic control signals;
  - (14) Seventy miles per hour on all rural freeways.
  - (15) Fifty-five miles per hour on all portions of freeways or expressways in congested areas as determined by the Director and that are located within a municipal corporation or within an interstate freeway outerbelt, except as provided in division (B)(16) of this section;
  - (16) Sixty-five miles per hour on all portions of freeways or expressways without traffic control signals in urbanized areas.
- (C) It is prima-facie unlawful for any person to exceed any of the speed limitations in subsection (B)(1)(a) (2), (3), (4), (6), (7), (8), and (9) of this section, or any declared or established pursuant to this section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations in subsection (D) of this section. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.
- (D) No person shall operate a motor vehicle upon a street or highway as follows:
- (1) At a speed exceeding 55 miles per hour, except upon a two-lane state route as provided in division (B)(10) of this section and upon a highway, expressway or freeway as provided in subsection (B) (12), (13), (14), and (16) of this section;
  - (2) At a speed exceeding 60 miles per hour upon a two-lane state route as provided in division (B)(10) of this section and upon a highway as provided in division (B)(12) of this section;
  - (3) At a speed exceeding 65 miles per hour upon an expressway as provided in subsection (B)(13) or upon a freeway as provided in division (B)(16) of this section, except upon a freeway as provided in division (B)(14) of this section;
  - (4) At a speed exceeding 70 miles per hour upon a freeway as provided in subsection (B)(14) of this section;
  - (5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to ORC 4511.21(I)(2) or (L)(2).
- (E) In every charge of violation of this section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (C) of this section also the speed which subsections (B)(1)(a)(2), (3), (4), (6), (7), (8), or (9) of, or a limit declared or established pursuant to this section declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.
- (F) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (B)(1)(a) (2), (3), (4), (6), (7), (8), or (9) of this section, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d) hereof. If the court finds a violation of subsection (B)(1)(a) to (B)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) hereof. If it finds no violation of subsections (B)(1)(a) (2), (3), (4), (6), (7), (8), or (9) of this section or a limit declared or established

pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (D) of this section.

- (G) Points shall be assessed for violation of a limitation under subsection (D) hereof in accordance with ORC 4510.036.
- (H) (1) Whenever the director determines upon the basis of criteria established by an engineering study, as defined by the director, that any speed limit set forth in divisions (B)(1)(a) to (D) of this section is greater or less than is reasonable or safe under the conditions found to exist at any portion of a street or highway under the jurisdiction of the director, the director shall determine and declare a reasonable and safe prima-facie speed limit, which shall be effective when appropriate signs giving notice of it are erected at the location.
- (2) Whenever the director determines upon the basis of criteria established by an engineering study, as defined by the director, that the speed limit of 55 miles per hour on a two-lane state route outside a municipal corporation is less than is reasonable or safe under the conditions found to exist at that portion of the state route, the director may determine and declare a speed limit of 60 miles per hour for that portion of the state route, which shall be effective when appropriate signs giving notice of it are erected at the location.
- (3) (a) For purposes of the safe and orderly movement of traffic upon any portion of a street or highway under the jurisdiction of the director, the director may establish a variable speed limit that is different than the speed limit established by or under this section on all or portions of Interstate 670, Interstate 275, and Interstate 90 commencing at the intersection of that interstate with Interstate 71 and continuing to the border of the state of Ohio with the state of Pennsylvania. The director shall establish criteria for determining the appropriate use of variable speed limits and shall establish variable speed limits in accordance with the criteria. The director may establish variable speed limits based upon the time of day, weather conditions, traffic incidents, or other factors that affect the safe speed on a street or highway. The director shall not establish a variable speed limit that is based on a particular type or class of vehicle. A variable speed limit established by the director under this section is effective when appropriate signs giving notice of the speed limit are displayed at the location.
- (b) Except for variable speed limits established under division (H)(3)(a) of this section, the director shall establish a variable speed limit under the authority granted to the director by this section on not more than two additional highways and only pursuant to criteria established in rules adopted in accordance with ORC Chapter 119. The rules shall be based on the criteria described in division (H)(3)(a) of this section. The rules also shall establish the parameters of any engineering study necessary for determining when variable speed limits are appropriate.
- (4) Nothing in this section shall be construed to limit the authority of the director to establish speed limits within a construction zone as authorized under ORC 4511.98.
- (I) (1) Except as provided in divisions (I)(2), (J), (K), and (N) of this section, whenever local authorities determine upon the basis of criteria established by an engineering study, as defined by the director, that the speed permitted by divisions (B)(1)(a) to (D) of this section, on any part of a highway under their jurisdiction, is greater than is reasonable and safe under the conditions found to exist at such location, the local authorities may by resolution request the director to determine and declare a reasonable and safe prima-facie speed limit. Upon receipt of such request the director may determine and declare a reasonable and safe prima-facie speed limit at such location, and if the director does so, then such declared speed limit shall become effective only when appropriate signs giving notice thereof are erected at such location by the local authorities. The director may withdraw the declaration of a prima-facie speed limit whenever in the director's opinion the altered prima-facie speed limit becomes unreasonable. Upon such withdrawal, the

declared prima-facie speed limit shall become ineffective and the signs relating thereto shall be immediately removed by the local authorities.

- (2) A local authority may determine on the basis of criteria established by an engineering study, as defined by the director, that the speed limit of 65 or 70 miles per hour on a portion of a freeway under its jurisdiction is greater than is reasonable or safe under the conditions found to exist at that portion of the freeway. If the local authority makes such a determination, the local authority by resolution may request the director to determine and declare a reasonable and safe speed limit of not less than 55 miles per hour for that portion of the freeway. If the director takes such action, the declared speed limit becomes effective only when appropriate signs giving notice of it are erected at such location by the local authority.

- (J) Local authorities in their respective jurisdictions may authorize by ordinance higher prima-facie speeds than those stated in this section upon through highways, or upon highways or portions thereof where there are no intersections, or between widely spaced intersections, provided signs are erected giving notice of the authorized speed, but local authorities shall not modify or alter the basic rule set forth in division (A) of this section or in any event authorize by ordinance a speed in excess of the maximum speed permitted by division (D) of this section for the specified type of highway.

Alteration of prima-facie limits on state routes by local authorities shall not be effective until the alteration has been approved by the director. The director may withdraw approval of any altered prima-facie speed limits whenever in the director's opinion any altered prima-facie speed becomes unreasonable, and upon such withdrawal, the altered prima-facie speed shall become ineffective and the signs relating thereto shall be immediately removed by the local authorities.

- (K) (1) As used in divisions (K)(1), (2), (3), and (4) of this section, "unimproved highway" means a highway consisting of any of the following:

- (a) Unimproved earth;
- (b) Unimproved graded and drained earth;
- (c) Gravel.

- (2) Except as otherwise provided in divisions (K)(4) and (5) of this section, whenever a local authority determines upon the basis of criteria established by an engineering study, as defined by the director, that the speed permitted by division (B)(5) of this section on any part of an unimproved highway under its jurisdiction and in the unincorporated territory of the local authority is greater than is reasonable or safe under the conditions found to exist at the location, the local authority may by resolution declare a reasonable and safe prima-facie speed limit of 55 but not less than 25 miles per hour. An altered speed limit adopted by a local authority under this division becomes effective when appropriate traffic control devices, as prescribed in section 4511.11 of the Revised Code, giving notice thereof are erected at the location, which shall be no sooner than 60 days after adoption of the resolution.

- (3) (a) Whenever, in the opinion of a local authority, any altered prima-facie speed limit established by the local authority under this division becomes unreasonable, the local authority may adopt a resolution withdrawing the altered prima-facie speed limit. Upon the adoption of such a resolution, the altered prima-facie speed limit becomes ineffective and the traffic control devices relating thereto shall be immediately removed.

- (b) Whenever a highway ceases to be an unimproved highway and the local authority has adopted an altered prima-facie speed limit pursuant to division (K)(2) of this section, the local authority shall, by resolution, withdraw the altered prima-facie speed limit as soon as the highway ceases to be unimproved. Upon the adoption of such a resolution, the altered prima-facie

speed limit becomes ineffective and the traffic control devices relating thereto shall be immediately removed.

- (4) (a) If the boundary of two local authorities rests on the centerline of an unimproved highway in unincorporated territory and both local authorities have jurisdiction over the highway, neither of the local authorities may declare an altered prima-facie speed limit pursuant to division (K)(2) of this section on the part of the highway under their joint jurisdiction unless both of the local authorities determine, upon the basis of criteria established by an engineering study, as defined by the director, that the speed permitted by division (B)(5) of this section is greater than is reasonable or safe under the conditions found to exist at the location and both boards agree upon a reasonable and safe prima-facie speed limit of less than 55 but not less than 25 miles per hour for that location. If both local authorities so agree, each shall follow the procedure specified in division (K)(2) of this section for altering the prima-facie speed limit on the highway. Except as otherwise provided in division (K)(4)(b) of this section, no speed limit altered pursuant to division (K)(4)(a) of this section may be withdrawn unless both of the local authorities determine that the altered prima-facie speed limit previously adopted becomes unreasonable and each board adopts a resolution withdrawing the altered prima-facie speed limit pursuant to the procedure specified in division (K)(3)(a) of this section.
- (b) Whenever a highway described in division (K)(4)(a) of this section ceases to be an unimproved highway and two local authorities have adopted an altered prima-facie speed limit pursuant to division (K)(4)(a) of this section, both local authorities shall, by resolution, withdraw the altered prima-facie speed limit as soon as the highway ceases to be unimproved. Upon the adoption of the resolution, the altered prima-facie speed limit becomes ineffective and the traffic control devices relating thereto shall be immediately removed.
- (5) As used in subsection (K)(5) of this section:
- (a) "Commercial subdivision" means any platted territory outside the limits of a municipal corporation and fronting a highway where, for a distance of 300 feet or more, the frontage is improved with buildings in use for commercial purposes, or where the entire length of the highway is less than 300 feet long and the frontage is improved with buildings in use for commercial purposes.
- (b) "Residential subdivision" means any platted territory outside the limits of a municipal corporation and fronting a highway, where, for a distance of 300 feet or more, the frontage is improved with residences or residences and buildings in use for business, or where the entire length of the highway is less than 300 feet long and the frontage is improved with residences or residences and buildings in use for business.

Whenever the director finds upon the basis of criteria established by an engineering study, as defined by the director, that the prima-facie speed permitted by subsection (B)(5) of this section on any part of a highway under its jurisdiction that is located in a commercial or residential subdivision, except on highways or portions thereof at the entrances to which vehicular traffic from the majority of intersecting highways is required to yield the right-of-way to vehicles on such highways in obedience to stop or yield signs or traffic control signals, is greater than is reasonable and safe under the conditions found to exist at the location, the board may by resolution declare a reasonable and safe prima-facie speed limit of less than 55 but not less than 25 miles per hour at the location. An altered speed limit adopted by the director under this division shall become effective when appropriate signs giving notice thereof are erected at the location by the city. Whenever, in the opinion of the director, any altered prima-facie speed limit established by it under this division becomes unreasonable, it may adopt a resolution withdrawing the altered prima-facie

speed, and upon such withdrawal, the altered prima-facie speed shall become ineffective, and the signs relating thereto shall be immediately removed by the city.

- (L) (1) The director of transportation, based upon an engineering study, as defined by the director, of a highway, expressway, or freeway described in division (B)(12), (13), (14), (15), or (16) of this section, in consultation with the director of public safety and, if applicable, the local authority having jurisdiction over the studied highway, expressway, or freeway, may determine and declare that the speed limit established on such highway, expressway, or freeway under division (B)(12), (13), (14), (15), or (16) of this section either is reasonable and safe or is more or less than that which is reasonable and safe.
- (2) If the established speed limit for a highway, expressway, or freeway studied pursuant to division (L)(1) of this section is determined to be more or less than that which is reasonable and safe, the director of transportation, in consultation with the director of public safety and, if applicable, the local authority having jurisdiction over the studied highway, expressway, or freeway, shall determine and declare a reasonable and safe speed limit for that highway, expressway, or freeway.
- (M) (1) (a) If the boundary of two local authorities rests on the centerline of a highway and both authorities have jurisdiction over the highway, the speed limit for the part of the highway within their joint jurisdiction shall be either one of the following as agreed to by both authorities:
- (i) Either prima-facie speed limit permitted by division (B) of this section;
  - (ii) An altered speed limit determined and posted in accordance with this section.
- (b) If the local authorities are unable to reach an agreement, the speed limit shall remain as established and posted under this section.
- (2) Neither local authority may declare an altered prima-facie speed limit pursuant to this section on the part of the highway under their joint jurisdiction unless both of the local authorities determine, upon the basis of criteria established by an engineering study, as defined by the director, that the speed permitted by this section is greater than is reasonable or safe under the conditions found to exist at the location and both authorities agree upon a uniform reasonable and safe prima-facie speed limit of less than 55 but not less than 25 miles per hour for that location. If both authorities so agree, each shall follow the procedure specified in this section for altering the prima-facie speed limit on the highway, and the speed limit for the part of the highway within their joint jurisdiction shall be uniformly altered. No altered speed limit may be withdrawn unless both local authorities determine that the altered prima-facie speed limit previously adopted becomes unreasonable and each adopts a resolution withdrawing the altered prima-facie speed limit pursuant to the procedure specified in this section.
- (N) The legislative authority of a municipal corporation or township in which a boarding school is located, by resolution or ordinance, may establish a boarding school zone. The legislative authority may alter the speed limit on any street or highway within the boarding school zone and shall specify the hours during which the altered speed limit is in effect. For purposes of determining the boundaries of the boarding school zone, the altered speed limit within the boarding school zone, and the hours the altered speed limit is in effect, the legislative authority shall consult with the administration of the boarding school and with the county engineer or other appropriate engineer, as applicable. A boarding school zone speed limit becomes effective only when appropriate signs giving notice thereof are erected at the appropriate locations.
- (O) As used in this section:
- (1) "Interstate system" has the same meaning as in 23 U.S.C. 101.

- (2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
  - (3) "Noncommercial bus" includes but is not limited to a school bus or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
  - (4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the director.
  - (5) "Rural" means an area outside urbanized areas and outside of a business or urban district, and areas that extend within urbanized areas where the roadway characteristics remain mostly unchanged from those outside the urbanized areas.
  - (6) "Urbanized area" has the same meaning as in 23 U.S.C. 101.
  - (7) "Divided" means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.
- (P) (1) A violation of any provision of this section is one of the following:
- (a) Except as otherwise provided in divisions (P)(1)(b), (1)(c), (2), and (3) of this section, a minor misdemeanor;
  - (b) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;
  - (c) 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 this section or of any provision of a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.
- (2) ~~If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of this section or of any provision of a municipal ordinance that is substantially similar to this section 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, a misdemeanor of the fourth degree.~~
- Subsection (P)(2) of this section does not apply if penalties may be imposed under subsection (P)(1)(b) or (c) of this section.
- (3) Notwithstanding division (P)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with ORC 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this division and if the court determines that the offender is an indigent person and unable to pay the fine.
  - (4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.100 (ORC 4511.991).
- (Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)



**State Law reference—** (ORC 4511.21, ORC 4511.991)

**333.11 TEXTING WHILE DRIVING PROHIBITED.**

- (a) No person shall ~~drive-operate~~ a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using, ~~a handheld holding, or physically supporting with any part of the person's body an~~ an electronic wireless communications device ~~to write, send, or read a text-based communication.~~
- (b) Subsection (a) of this section does not apply to any of the following:
- (1) A person using ~~a handheld~~ an electronic wireless communications device ~~in that manner for emergency purposes, including an emergency to make contact, for emergency purposes,~~ with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
  - (2) A person driving a public safety vehicle ~~who uses a handheld while using an~~ an electronic wireless communications device ~~in that manner~~ in the course of the person's duties;
  - (3) A person using ~~a handheld~~ an electronic wireless communications device ~~in that manner whose~~ when the person's motor vehicle is in a stationary position and ~~who~~ is outside a lane of travel, at a traffic control signal that is currently directing traffic to stop, or parked on a road or highway due to an emergency or road closure;
  - (4) A person ~~reading, selecting, or entering a name or telephone number in a handheld~~ using and holding an electronic wireless communications device directly near the person's ear for the purpose of making, or receiving, or conducting a telephone call provided that the person does not manually enter letters, numbers, or symbols into the device;
  - (5) A person receiving wireless messages on a an electronic wireless communications device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic or weather alerts; or data used primarily by the motor vehicle, provided that the person does not hold or support the device with any part of the person's body;
  - (6) A person ~~receiving wireless messages via radio waves using the speaker phone function of the~~ electronic wireless communications device, provided that the person does not hold or support the device with any part of the person's body;
  - (7) A person using ~~a~~ an electronic wireless communications device for navigation purposes, provided that the person does not do either of the following during the use:
    - (a) Manually enter letters, numbers, or symbols into the device;
    - (b) Hold or support the device with any part of the person's body ;
  - (8) A person ~~conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or using a feature or function of the electronic wireless interpersonal communication device with a device that does not require single touch or single swipe, provided that the person does not do either of the following during the use:~~

~~(a) Manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of into the device;~~

~~(b) Hold or support the device with any part of the person's body;~~

(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;

(10) A person operating a utility service vehicle or a vehicle for or on behalf of a utility, if the person is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals;

(11) A person using ~~a handheld~~ an electronic wireless communications device in conjunction with a voice-operated or hands-free ~~device~~ feature or function of the vehicle or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe, provided the person does not hold or support the device with any part of the person's body;

(12) A person using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does not do either of the following during the use:

(a) Manually enter letters, numbers, or symbols into the device;

(b) Hold or support the device with any part of the person's body.

(13) A person storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.

(c) ~~(1) 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 subsection (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. On January 31 of each year, the department of public safety shall issue a report to the general assembly that specifies the number of citations issued for violations of this section during the previous calendar year.~~

(2) If a law enforcement officer issues an offender a ticket, citation, or summons for a violation of subsection (a) of this section, the officer shall do both of the following:

(a) Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;

(b) Ensure that such report indicates the offender's race.

(d) (1) Whoever violates subsection (a) of this section is guilty of a minor operating a motor vehicle while using an electronic wireless communication device, an unclassified misdemeanor.

(a) Except as provided in subsections (d)(1)(b), (c), (d), and (2) of this section, the court shall impose upon the offender a fine of not more than one hundred fifty dollars.

(b) If, within two years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of this section or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than two hundred fifty dollars.

(c) If, within two years of the violation, the offender has been convicted of or pleaded guilty to two or more prior violations of this section or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than five hundred dollars. The court also may impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for ninety days.

(d) Notwithstanding subsections (d)(1)(a) to (c) of this section, if the offender was operating the motor vehicle at the time of the violation in a construction zone where a sign was posted in accordance with ORC 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the amount imposed for the violation under subsection (d)(1)(a), (b), or (c) of this section, as applicable.

(2) In lieu of payment of the fine of one hundred fifty dollars under subsection (d)(1)(a) of this section and the assessment of points under subsection (d)(4) of this section, the offender instead may elect to attend the distracted driving safety course, as described in ORC 4511.991. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall not be required to pay the fine and shall not have the points assessed against that offender's driver's license if the offender submits the written evidence to the court.

(3) The court may impose any other penalty authorized under ORC 2929.21 to 2929.28. However, the court shall not impose a fine or a suspension not otherwise specified in subsection (d)(1) of this section. The court also shall not impose a jail term or community residential sanction.

(4) Except as provided in subsection (d)(2) of this section, points shall be assessed for a violation of subsection (a) of this section in accordance with ORC 4510.036.

(5) The offense established under this section is a strict liability offense and ORC 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(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.

(f) A prosecution for an offense in violation of this section does not preclude a prosecution for an offense in violation of a substantially equivalent municipal ordinance based on the same conduct. However, the two offenses are allied offenses of similar import under ORC 2941.25.

(g)(1) A law enforcement officer does not have probable cause and shall not stop the operator of a motor vehicle for purposes of enforcing this section unless the officer visually observes the operator using, holding, or physically supporting with any part of the person's body the electronic wireless communications device.

(2) A law enforcement officer who stops the operator of a motor vehicle, trackless trolley, or streetcar for a violation of subsection (a) of this section shall inform the operator that the operator may decline a search of the operator's electronic wireless communications device. The officer shall not do any of the following:

(a) Access the device without a warrant, unless the operator voluntarily and unequivocally gives consent for the officer to access the device;

(b) Confiscate the device while awaiting the issuance of a warrant to access the device;

(c) Obtain consent from the operator to access the device through coercion or any other improper means. Any consent by the operator to access the device shall be voluntary and unequivocal before the officer may access the device without a warrant.

(h) As used in this section:

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

(a) A wireless telephone;

(b) A text-messaging device;

(c) A personal digital assistant;

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

(e) Any device capable of displaying a video, movie, broadcast television image, or visual image;

(f) Any other substantially similar wireless device that is designed or used to communicate text, initiate or receive communication, or exchange information or data.

An "electronic wireless communications device" does not include a two-way radio transmitter or receiver used by a person who is licensed by the federal communications commission to participate in the amateur radio service.

(2) "Voice-operated or hands-free feature or function" means a feature or function that allows a person to use an electronic wireless communications device without the use of either hand, except to activate, deactivate, or initiate the feature or function with a single touch or single swipe.

(3) "Utility" means an entity specified in division (A), (C), (D), (E), or (G) of ORC 4905.03.

(4) "Utility service vehicle" means a vehicle owned or operated by a utility.

(e) A prosecution for a violation of Ohio R.C. 4511.204 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 Ohio R.C. 4511.204 and is also convicted of or pleads guilty to a violation of a substantially equivalent municipal ordinance based on the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(f) As used in this section:

~~(1) Electronic wireless communications device~~ includes any of the following:

- A. A wireless telephone;
- B. A text-messaging device;
- C. A personal digital assistant;
- D. A computer, including a laptop computer and a computer tablet;
- E. Any other substantially similar wireless device that is designed or used to communicate text.

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

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

**State Law reference—** (ORC 4511.204)

**335.09 DISPLAY OF LICENSE PLATES, REGISTRATION MARKS, AND VALIDATION STICKERS OR TEMPORARY LICENSE PLACARD OR WINDSHIELD STICKERS; PENALTIES.**

- (A) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the director of public safety, including any county identification sticker and any validation sticker when required by and issued under ORC 4503.19 and ORC 4503.191, ~~except that~~ However, a commercial tractor shall display the license plate and validation sticker on the front of the commercial tractor.
- (2) The license plate shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.
- (3) No person to whom a temporary ~~license placard or windshield sticker~~ motor vehicle license registration has been issued for the use of a motor vehicle under ORC 4503.182, and no operator of that motor vehicle, shall fail to display the temporary motor vehicle license registration placard in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, ~~or fail to display the windshield sticker in plain view on the rear window of the motor vehicle.~~
- (4) ~~No person shall cover a temporary motor vehicle license registration temporary license placard or windshield sticker shall be covered~~ by any material that obstructs its visibility.
- (B) Whoever violates this section is guilty of a minor misdemeanor.
- (C) The offense established under subsection (A) of this section is a strict liability offense and ORC 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

**State Law reference**— (ORC 4503.21)

### 335.10 EXPIRED OR UNLAWFUL LICENSE PLATES.

- (a) ~~Except as provided by ORC 4503.103, 4503.173, 4503.41, 4503.43, and 4503.46, no person who is the owner or chauffeur of a motor vehicle which is parked or operated or driven upon the public streets or highways shall fail to file annually the application for registration or to pay the tax therefor, as required by Ohio R.C. Chapter 4503. (ORC 4503.11(A))~~
- (b) No person shall operate, ~~or drive park~~ upon the public streets or highways a motor vehicle acquired from a former owner who has registered the motor vehicle, while the motor vehicle displays the distinctive number or identification mark assigned to it upon its original registration. (ORC 4549.11)(A))
- (c) No person who is the owner of a motor vehicle and a resident of Ohio shall operate, ~~or drive or park~~ the motor vehicle upon the public streets or highways, while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of Ohio relating to the registration and identification of motor vehicles. (ORC 4549.12(A))
- (d) No person shall park or operate any vehicle upon any public street or highway upon which is displayed an expired license plate or an expired validation sticker.
- (e) No person shall park or operate any vehicle upon any public street or highway upon which are displayed any license plates not legally registered and issued for such vehicle, or upon which are displayed any license plates that were issued on an application for registration that contains any false statement by the applicant.
- (f) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor of the fourth degree. (ORC 4503.11(B))  
(2) Whoever violates subdivision (b) of this section is guilty of operation of a motor vehicle bearing license plates or an identification mark issued to another, a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense. (ORC 4549.11)(B)  
(3) Whoever violates division (c) of this section is guilty of illegal operation by a resident of this state of a motor vehicle bearing the distinctive number or identification mark issued by a foreign jurisdiction, a minor misdemeanor. (ORC 4549.12(B))  
~~(3-4) Whoever violates any provision of this section for which no other penalty is provided is guilty of a minor misdemeanor.~~

**State Law reference**— (ORC 4549.11; 4549.12)

**335.11 USE OF ILLEGAL LICENSE PLATES; TRANSFER OF REGISTRATION.**

- (a) No person shall operate or drive a motor vehicle upon the streets in this Municipality if it displays a license plate or a distinctive number or identification mark that meets any of the following criteria:
- (1) Is fictitious;
  - (2) Is a counterfeit or an unlawfully made copy of any distinctive number or identification mark;
  - (3) Belongs to another motor vehicle, provided that this section does not apply to a motor vehicle that is operated on the streets in this Municipality when the motor vehicle displays license plates that originally were issued for a motor vehicle that previously was owned by the same person who owns the motor vehicle that is operated on the streets in this municipality, during the 30-day period described in ~~subsection (c) hereof~~ division (A)(4) of ORC 4503.12.

- (b) Whoever violates subsection (a)(1), (2) or (3) of this section is guilty of operating a motor vehicle bearing an invalid license plate or identification mark, a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense.

A person who fails to comply with the transfer of registration provisions of ORC 4503.12 and is charged with a violation of that section shall not be charged with a violation of this section. (ORC 4549.08)

- (c) Upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle expires, and the original owner shall immediately remove the license plates from the motor vehicle except that:

(1) If a statutory merger or consolidation results in the transfer of ownership of a motor vehicle from a constituent corporation to the surviving corporation, or if the incorporation of a proprietorship or partnership results in the transfer of ownership of a motor vehicle from the proprietorship or partnership to the corporation, the registration shall be continued upon the filing by the surviving or new corporation, within thirty days of such transfer, of an application for an amended certificate of registration. Upon a proper filing, the registrar of motor vehicles shall issue an amended certificate of registration in the name of the new owner.

(2) If the death of the owner of a motor vehicle results in the transfer of ownership of the motor vehicle to the surviving spouse of the owner or if a motor vehicle is owned by two persons under joint ownership with right of survivorship established under section 2131.12 of the Revised Code and one of those persons dies, the registration shall be continued upon the filing by the survivor of an application for an amended certificate of registration. In relation to a motor vehicle that is owned by two persons under joint ownership with right of survivorship established under ORC 2131.12, the application shall be accompanied by a copy of the certificate of title that specifies that the vehicle is owned under joint ownership with right of survivorship. Upon a proper filing, the registrar shall issue an amended certificate of registration in the name of the survivor.

(3) If the death of the owner of a motor vehicle results in the transfer of ownership of the motor vehicle to a transfer-on-death beneficiary or beneficiaries designated under ORC 2131.13 the, the registration shall be continued upon the filing by the transfer-on-death beneficiary or

beneficiaries of an application for an amended certificate of registration. The application shall be accompanied by a copy of the certificate of title that specifies that the owner of the motor vehicle has designated the motor vehicle in beneficiary form under \_\_\_\_\_ ORC 2131.13. Upon a proper filing, the registrar shall issue an amended certificate of registration in the name of the transfer-on-death beneficiary or beneficiaries.

(4) If the original owner of a motor vehicle that has been transferred makes application for the registration of another motor vehicle at any time during the remainder of the registration period for which the transferred motor vehicle was registered, the owner may file an application for transfer of the registration and, where applicable, the license plates. The transfer of the registration and, where applicable, the license plates from the motor vehicle for which they originally were issued to a succeeding motor vehicle purchased by the same person in whose name the original registration and license plates were issued shall be done within a period not to exceed thirty days. During that thirty-day period, the license plates from the motor vehicle for which they originally were issued may be displayed on the succeeding motor vehicle, and the succeeding motor vehicle may be operated on the public roads and highways in this state. At the time of application for transfer, the registrar shall compute and collect the amount of tax due on the succeeding motor vehicle, based upon the amount that would be due on a new registration as of the date on which the transfer is made less a credit for the unused portion of the original registration beginning on that date. If the credit exceeds the amount of tax due on the new registration, no refund shall be made. In computing the amount of tax due and credits to be allowed under this division, the provisions of division (B)(1)(a) and (b) of ORC 4503.11 shall apply. As to passenger cars, noncommercial vehicles, motor homes, and motorcycles, transfers within or between these classes of motor vehicles only shall be allowed. If the succeeding motor vehicle is of a different class than the motor vehicle for which the registration originally was issued, new license plates also shall be issued upon the surrender of the license plates originally issued and payment of the fees provided in divisions (C) and (D) of ORC 4503.10.

(5) The owner of a commercial car having a gross vehicle weight or combined gross vehicle weight of more than ten thousand pounds may transfer the registration of that commercial car to another commercial car the owner owns without transferring ownership of the first commercial car. At any time during the remainder of the registration period for which the first commercial car was registered, the owner may file an application for the transfer of the registration and, where applicable, the license plates, accompanied by the certificate of registration of the first commercial car. The amount of any tax due or credit to be allowed for a transfer of registration under this division shall be computed in accordance with division (A)(4) of this section. No commercial car to which a registration is transferred under this division shall be operated on a public road or highway in this state until after the transfer of registration is completed in accordance with this division.

(6) Upon application to the registrar or a deputy registrar, a person who owns or leases a motor vehicle may transfer special license plates assigned to that vehicle to any other vehicle that the person owns or leases or that is owned or leased by the person's spouse. As appropriate, the application also shall be accompanied by a power of attorney for the registration of a leased vehicle and a written statement releasing the special plates to the applicant. Upon a proper filing, the registrar or deputy registrar shall assign the special license plates to the motor vehicle owned or leased by the applicant and issue a new certificate of registration for that motor vehicle.



(7) If a corporation transfers the ownership of a motor vehicle to an affiliated corporation, the affiliated corporation may apply to the registrar for the transfer of the registration and any license plates. The registrar may require the applicant to submit documentation of the corporate relationship and shall determine whether the application for registration transfer is made in good faith and not for the purposes of circumventing the provisions of this chapter. Upon a proper filing, the registrar shall issue an amended certificate of registration in the name of the new owner.

An application under subdivision (c) of this section shall be accompanied by a service fee equal to the amount established under O.R.C. 4503.038, a transfer fee of one dollar, and the original certificate of registration, if applicable.

Neither the registrar nor a deputy registrar shall transfer a registration under division (A) of this section if the registration is prohibited by division (D) of O.R.C. 2935.27, division (A) of section 2937.221, division (A) of ORC 4503.13, division (D) of O.R.C. 4503.234, division (B) of O.R.C. 4510.22, or division (B)(1) of O.R.C. 4521.10, or division (B) of O.R.C. 5537.041.

Whoever violates subsection (c) of this section is guilty of a misdemeanor of the fourth degree.

As used in subsection (6) of this section, "special license plates" means either of the following:

(1) Any license plates for which the person to whom the license plates are issued must pay an additional fee in excess of the fees prescribed in O.R.C. 4503.04, Chapter 4504, and the service fee prescribed in division (D) or (G) of O.R.C. 4503.10;

(2) License plates issued under O.R.C. 4503.44. (O.R.C. 4503.12)

(d) The transfer of the registration and, where applicable, the license plates from the motor vehicle for which they originally were issued to a succeeding motor vehicle purchased by the same person in whose name the original registration and license plates were issued shall be done within a period not to exceed 30 days. During that 30-day period, the license plates from the motor vehicle for which they originally were issued may be displayed on the succeeding motor vehicle, and the succeeding motor vehicle may be operated on the streets of the Municipality.

Whoever violates this subsection is guilty of a misdemeanor of the fourth degree.

**State Law reference**— (ORC 4503.12, ORC 4549.08)

### **337.22 WINDSHIELD AND WINDSHIELD WIPER; SIGN OR POSTER THEREON.**

- (a) No person shall drive any motor vehicle on a street or highway, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.
- (b) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster or decal not to exceed four inches in height by six inches in width. No sign, poster or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor

vehicle when in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.

- (2) Subsection (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if ~~the device meets both~~ either of the following apply to the device:

A. It is a "vehicle safety technology" as defined in 49 C.F.R. 393.5 and complies with 49 C.F.R. 393.60(e)(1)(ii).

B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals  
~~B. and it does not conceal the vehicle identification number.~~

- (3) Subsection (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if ~~the device meets both~~ either of the following apply to the device:

A. It is a "vehicle safety technology" as defined in 49 C.F.R. 393.5 and complies with 49 C.F.R. 393.60(e)(1)(ii).

B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals,  
~~B. and it is mounted not more than six eight and one-half inches below the upper edge of the windshield and is outside the area swept by the vehicle's windshield wipers.~~

- (c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.

- (d) Whoever violates this section is guilty of a minor misdemeanor.

**State Law reference—** (ORC 4513.24)

### **341.01 DEFINITIONS.**

As used in this chapter:

- (A) *Alcohol concentration* means the concentration of alcohol in a person's blood, breath or urine. When expressed as a percentage, it means grams of alcohol per the following:
- (1) One hundred milliliters of whole blood, blood serum, or blood plasma;
  - (2) Two hundred ten liters of breath;
  - (3) One hundred milliliters of urine.
- (B) *Commercial driver's license* means a license issued in accordance with ORC Chapter 4506 that authorizes an individual to drive a commercial motor vehicle.
- (C) *Commercial driver's license information system* means the information system established pursuant to the requirements of the "Commercial Motor Vehicle Safety Act of 1986," 100 Stat. 3207-171, 49 U.S.C.A. App. 2701.
- (D) *Commercial motor vehicle*, except when used in ORC 4506.25, means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:

- (1) Any combination of vehicles with a combined gross vehicle weight rating of 26,001 pounds or more, provided the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
  - (2) Any single vehicle with a gross vehicle weight or gross vehicle weight rating of 26,001 pounds or more ;
  - (3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport 16 or more passengers including the driver;
  - (4) Any school bus with a gross vehicle weight or gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than 16 passengers including the driver;
  - (5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;
  - (6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Motor Carrier Safety Administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.
- (E) *Controlled substance* means all of the following:
- (1) Any substance classified as a controlled substance under the "Controlled Substances Act, 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;
  - (2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;
  - (3) Any drug of abuse.
- (F) *Conviction* means an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
- (G) *Disqualification* means any of the following:
- (1) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;
  - (2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;
  - (3) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.
- (H) *Domiciled* means having a true, fixed, principal, and permanent residence to which an individual intends to return.
- (I) *Downgrade* means any of the following, as applicable:
- (1) A change in the commercial driver's license, or commercial driver's license temporary instruction permit, holder's self-certified status as described in division (A)(1) of O.R.C. 4506.10;
  - (2) A change to a lesser class of vehicle;

- (3) Removal of commercial driver's license privileges from the individual's driver's license.
- (J) *Drive* means to drive, operate or be in physical control of a motor vehicle.
- (K) *Driver* means any person who drives, operates or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.
- (L) *Driver's license* means a license issued by the bureau of motor vehicles that authorizes an individual to drive.
- (M) *Drug of abuse* means any controlled substance, dangerous drug as defined in ORC 4729.01, harmful intoxicant as defined in ORC 2925.01, or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.
- (N) "Electronic device" includes a cellular telephone, a personal digital assistant, a pager, a computer, and any other device used to input, write, send, receive, or read text.
- (O) "Eligible unit of local government" means a village, township, or county that has a population of not more than three thousand persons according to the most recent federal census.
- (P) *Employer* means any person, including the Federal Government, any state and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.
- (Q) *Endorsement* means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.
- (R) *Farm truck* means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than 150 miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than 150 miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this subsection and is not used in the operations of a motor carrier, as defined in ORC 4923.01.
- (S) *Fatality* means the death of a person as the result of a motor vehicle accident occurring not more than 365 days prior to the date of a death.
- (R) *Felony* means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this state, regardless of the penalty that may be imposed.
- (S) *Foreign jurisdiction* means any jurisdiction other than a state.
- (T) "Felony" means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this state, regardless of the penalty that may be imposed.
- (U) "Foreign jurisdiction" means any jurisdiction other than a state.
- (V) *Gross vehicle weight rating* means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of each towed unit.

- (W) *Hazardous materials* means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73, as amended.
- (X) *Imminent hazard* means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.
- (Y) *Medical variance* means one of the following received by a driver from the federal motor carrier safety administration that allows the driver to be issued a medical certificate:
- (1) An exemption letter permitting operation of a commercial motor vehicle under 49 C.F.R. 381, subpart C or 49 C.F.R. 391.64;
  - (2) A skill performance evaluation certificate permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. 391.49.
- (Z) *Mobile telephone* means a mobile communication device that falls under or uses any commercial mobile radio service as defined in 47 C.F.R. 20, except that mobile telephone does not include two-way or citizens band radio services.
- (AA) *Motor vehicle* means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer or semitrailer operated exclusively on a rail.
- (BB) *Out-of-service order* means a declaration by an authorized enforcement officer of a federal, state, local, Canadian or Mexican jurisdiction declaring that a driver, commercial motor vehicle or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5.
- (CC) *Peace officer* has the same meaning as in ORC 2935.01.
- (DD) *Portable tank* means a liquid or gaseous packaging designed primarily to be loaded onto or temporarily attached to a vehicle and equipped with skids, mountings, or accessories to facilitate handling of the tank by mechanical means.
- (EE) *Public safety vehicle* has the same meaning as in divisions (E)(1) and (3) of ORC 4511.01.
- (FF) *Recreational vehicle* includes every vehicle that is defined as a recreational vehicle in ORC 4501.01 and is used exclusively for purposes other than engaging in business for profit.
- (GG) *Residence* means any person's residence determined in accordance with standards prescribed in rules adopted by the registrar.
- (HH) *School bus* has the same meaning as in ORC 4511.01.
- (II) *Serious traffic violation* means any of the following:
- (1) A conviction arising from a single charge of operating a commercial motor vehicle in violation of any provision of ORC 4506.03;
  - (2) (a) Except as provided in subsection (II)(2)(b) of this section, a violation while operating a commercial motor vehicle of a law of this state, or any municipal ordinance or county or township resolution, or any other substantially similar law of another state or political subdivision of another state prohibiting either of the following:
    - (i) Texting while driving;
    - (ii) Using a handheld mobile telephone.

- (b) It is not a serious traffic violation if the person was texting or using a handheld mobile telephone to contact law enforcement or other emergency services.
- (3) A conviction arising from the operation of any motor vehicle that involves any of the following:
  - (a) A single charge of any speed in excess of the posted speed limit by fifteen miles per hour or more;
  - (b) Violation of ORC 4511.20 or 4511.201 or any similar ordinance or resolution, or of any similar law of another state or political subdivision of another state;
  - (c) Violation of a law of this state or an ordinance or resolution relating to traffic control, other than a parking violation, or of any similar law of another state or political subdivision of another state, that results in a fatal accident;
  - (d) Violation of ORC 4506.03 or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license with the proper class or endorsement for the specific vehicle group being operated or for the passengers or type of cargo being transported;
  - (e) Violation of ORC 4506.03 or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license being in the person's possession;
  - (f) Violation of ORC 4511.33 or ORC 4511.34 , or any municipal ordinance or county or township resolution substantially similar to either of those sections, or any substantially similar law of another state or political subdivision of another state;
  - (g) Violation of any other law of this state, any law of another state, or any ordinance or resolution of a political subdivision of this state or another state that meets both of the following requirements:
    - (i) It relates to traffic control, other than a parking violation;
    - (ii) It is determined to be a serious traffic violation by the United States secretary of transportation and is designated by the director as such by rule.
- (JJ) *State* means a state of the United States and includes the District of Columbia.
- (KK) *Tank vehicle* means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks that are either permanently or temporarily attached to the vehicle or its chassis and have an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more. "Tank vehicle" does not include a commercial motor vehicle transporting an empty storage container tank that is not designed for transportation, has a rated capacity of 1,000 gallons or more, and is temporarily attached to a flatbed trailer.
- (LL) *Tester* means a person or entity acting pursuant to a valid agreement entered into pursuant to ORC 4506.09.
- (MM) *Texting* means manually entering alphanumeric text into, or reading text from, an electronic device. Texting includes short message service, e-mail, instant messaging, a command or request to access a world wide web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry, for present or future communication. Texting does not include the following:

- (1) Using voice commands to initiate, receive, or terminate a voice communication using a mobile telephone;
- (2) Inputting, selecting, or reading information on a global positioning system or navigation system;
- (3) Pressing a single button to initiate or terminate a voice communication using a mobile telephone; or
- (4) Using, for a purpose that is not otherwise prohibited by law, a device capable of performing multiple functions, such as a fleet management system, a dispatching device, a mobile telephone, a citizens band radio, or a music player.

(NN) *Texting while driving* means texting while operating a commercial motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Texting while driving does not include operating a commercial motor vehicle with or without the motor running when the driver has moved the vehicle to the side of, or off, a highway and is stopped in a location where the vehicle can safely remain stationary.

(OO) *United States* means the 50 states and the District of Columbia.

(PP) *Upgrade* means a change in the class of vehicles, endorsements, or self-certified status as described in division (A)(1) of section 4506.10 of the Revised Code, that expands the ability of a current commercial driver's license holder to operate commercial motor vehicles under this chapter;

(QQ) *Use of a handheld mobile telephone* means:

- (1) Using at least one hand to hold a mobile telephone to conduct a voice communication;
- (2) Dialing or answering a mobile telephone by pressing more than a single button; or
- (3) Reaching for a mobile telephone in a manner that requires a driver to maneuver so that the driver is no longer in a seated driving position, or restrained by a seat belt that is installed in accordance with 49 C.F.R. 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

(RR) *Vehicle* has the same meaning as in Ohio R.C. 4511.01.(ORC 4506.01)

(Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

### **351.03 PROHIBITED STANDING OR PARKING PLACES.**

(A) No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with the provisions of this Traffic Code, or while obeying the directions of a police officer or a traffic control device, in any of the following places:

- (1) On a sidewalk, curb or street lawn area, except as provided in subsection (B) hereof;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within ten feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within 20 feet of a crosswalk at an intersection;

- (7) Within 30 feet of, and upon the approach to, any flashing beacon, stop sign, or traffic control device;
  - (8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by a traffic control device;
  - (9) Within 50 feet of the nearest rail of a railroad crossing;
  - (10) Within 20 feet of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within 75 feet of the entrance when it is properly posted with signs;
  - (11) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
  - (12) Alongside any vehicle stopped or parked at the edge or curb of a street;
  - (13) Upon any bridge or other elevated structure upon a street, or within a street tunnel;
  - (14) At any place where signs prohibit stopping, standing or parking, or where the curbing or street is painted yellow, or at any place in excess of the maximum time limited by signs;
  - (15) Within one foot of another parked vehicle;
  - (16) On the roadway portion of a freeway, expressway or thruway.
- (B) A person ~~shall be~~ is permitted, without charge or restriction, to stand or park on a sidewalk, a motor-driven cycle or motor scooter that has an engine not larger than 150 cubic centimeters, a low-speed micromobility device, ~~or a~~ bicycle or electric bicycle, provided that the motor-driven cycle, motor scooter, low-speed micromobility device, bicycle or electric bicycle does not impede the normal flow of pedestrian traffic. This division does not authorize any person to operate a vehicle in violation of Section 331.37.
- (C) Except as otherwise provided in this subsection, whoever violates subsection (A) of this section is guilty of 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, whoever violates this section is guilty of 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, whoever violates this section is guilty of a misdemeanor of the third degree.

(Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

**State Law reference**— (ORC 4511.68)

**351.04 PARKING NEAR CURB; ~~HANDICAPPED~~ ACCESSIBLE PARKING SPACE LOCATIONS ON PUBLIC AND PRIVATE LOTS AND GARAGES.**

- (A) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the wheels of the vehicle parallel with and not more than 12 inches from the curb, unless it is impossible to approach so close to the curb; in such case the stop shall be as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.
- (B) (1) This subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a state route unless an unoccupied roadway width of not less than 25 feet is available for free-moving traffic.



- (2) (a) No angled parking space that is located on a state route within a municipal corporation is subject to elimination, irrespective of whether there is or is not at least 25 feet of unoccupied roadway width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approves of the elimination of the angled parking space.
- (b) Replacement, repainting or any other repair performed by or on behalf of the municipal corporation of the lines that indicate the angled parking space does not constitute an intent by the municipal corporation to eliminate the angled parking space.
- (C) (1) (a) Except as provided in subsection (C)(1)(b) hereof, no vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.
- (b) The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.
- (2) The operator of a motorcycle may back the motorcycle into a parking space that is located on the side of, and parallel to, a road or highway. The motorcycle may face any direction when so parked. Not more than two motorcycles at a time shall be parked in a parking space as described in subsection (C)(2) of this section irrespective of whether or not the space is metered.
- (D) Notwithstanding any provision of this Code or any rule, air compressors, tractors, trucks and other equipment, while being used in the construction, reconstruction, installation, repair or removal of facilities near, on, over or under a street, may stop, stand or park where necessary in order to perform such work, provided a flagperson is on duty, or warning signs or lights are displayed as may be prescribed by the Ohio Director of Transportation.
- (E) ~~Special Accessible~~ parking locations and privileges for persons with disabilities that limit or impair the ability to walk, ~~also known as handicapped parking spaces or disability parking spaces~~ shall be provided and designated by the municipality and all agencies and instrumentalities thereof at all offices and facilities, where parking is provided, whether owned, rented or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators and ramps. All elevated signs posted in accordance with this subsection and ORC 3781.111 (C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet. If a new sign or a replacement sign designating a ~~special~~ an accessible parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the ~~special~~ designated accessible parking location if the motor vehicle is not legally entitled to be parked in that location.
- (F) (1) No person shall stop, stand or park any motor vehicle at ~~special~~ accessible parking locations provided under subsection (E) hereof, or at ~~special~~ accessible clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with subsection (E) hereof, unless one of the following applies:
- (a) The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or ~~special~~ accessible license plates;
- (b) The motor vehicle is being operated by or for the transport of a ~~handicapped~~ handicapped person with a disability and is displaying a parking card or ~~special handicapped accessible~~ license plates.

- (2) Any motor vehicle that is parked in an ~~special~~-accessible marked parking location in violation of subsection (F)(1) of this section may be towed or otherwise removed from the parking location by the Police Department. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the municipality for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the municipality for towing and storing motor vehicles.
- (3) If a person is charged with a violation of subsection (F)(1) of this section, it is an affirmative defense to the charge that the person suffered an injury not more than 72 hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in ORC 4503.44(A)(1).
- (G) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or ~~special~~ accessible license plates, or when a motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.
- (H) No owner of an office, facility, or parking garage where ~~special~~ parking locations are required to be designated in accordance with subsection (E) of this section shall fail to properly mark the ~~special~~ accessible parking locations in accordance with that division or fail to maintain the markings of the ~~special~~ accessible locations, including the erection and maintenance of the fixed or movable signs.
- (I) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or ~~special~~ accessible license plates if the parking card or ~~special~~ accessible license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.
- (J) As used in this section:
- (1) Handicapped Person with a disability means any person who has lost the use of one or both legs, or one or both arms, who is blind, deaf or ~~so severely handicapped as to be~~ unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary or other ~~handicapping~~ disabling condition.
  - (2) Person with a disability that limits or impairs the ability to walk has the same meaning as in ORC 4503.44.
  - (3) Special Accessible license plates and removable windshield placard mean any license plates or removable windshield placard or temporary removable windshield placard issued under ORC 4503.41 or ORC 4503.44, and also mean any substantially similar license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country or sovereignty.
- (K) (1) Whoever violates subsection (A) or (C) of this section is guilty of a minor misdemeanor.
- (2) (a) Whoever violates subsection (F)(1)(a) or (b) of this section is guilty of a misdemeanor and shall be punished as provided in subsection (I)(2)(a) and (b) of this section. Except as otherwise provided in subsection (I)(2)(a) of this section, an offender who violates subsection (F)(1)(a) or (b) of this section shall be fined not less than \$250.00 nor more than \$500.00. An offender who violates subsection (F)(1)(a) or (b) of this section shall be fined not more than \$100.00 if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:

- (i) At the time of the violation of subsection (F)(1)(a) of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or ~~special-accessible~~ license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in subsection (F)(1)(a) of this section.
  - (ii) At the time of the violation of subsection (F)(1)(b) of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or ~~special-handicapped~~ accessible license plates that then were valid but the offender or the person neglected to display the card or license plates as described in subsection (F)(1)(b) of this section.
- (b) In no case shall an offender who violates subsection (F)(1)(a) or (b) of this section be sentenced to any term of imprisonment.

An arrest or conviction for a violation of subsection (F)(1)(a) or (b) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

The clerk of the court shall pay every fine collected under subsections (K)(2) and (3) of this section to the political subdivision in which the violation occurred. Except as provided in division (K)(2) of this section, the political subdivision shall use the fine moneys it receives under subsection (K)(2) and (3) of this section to pay the expenses it incurs in complying with the signage and notice requirements contained in subsection (E) of this section. The political subdivision may use up to fifty per cent of each fine it receives under subsection (K)(2) and (3) of this section to pay the costs of educational, advocacy, support, and assistive technology programs for persons with disabilities, and for public improvements within the political subdivision that benefit or assist persons with disabilities, if governmental agencies or nonprofit organizations offer the programs.

- (3) Whoever violates subsection (F)(2) of this section shall be fined not less than \$250.00 nor more than \$500.00.

In no case shall an offender who violates subsection (F)(2) of this section be sentenced to any term of imprisonment. An arrest or conviction for a violation of division (F)(2) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

- (4) Whoever violates subsection (H) of this section shall be punished as follows:

- (a) Except as otherwise provided in subsection (K)(4) of this section, the offender shall be issued a warning.
- (b) If the offender previously has been convicted of or pleaded guilty to a violation of subsection (H) of this section or of a municipal ordinance that is substantially similar to that subsection, the offender shall not be issued a warning but shall be fined not more than \$25.00 for each parking location that is not properly marked or whose markings are not properly maintained.

Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

**State Law reference**— (ORC 4511.69)

**371.071 PERSONAL DELIVERY DEVICE ON SIDEWALKS AND CROSSWALKS.**

(A) As used in this section:

- (1) "Eligible entity" means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in business.
- (2) "Personal delivery device" means an electrically powered device to which all of the following apply:
  - (a) The device is intended primarily to transport property and cargo on sidewalks and crosswalks.
  - (b) The device weighs less than ~~90~~ 550 pounds excluding any property or cargo being carried in the device.
  - (c) The device has a maximum speed of ten miles per hour.
  - (d) The device is equipped with technology that enables the operation of the device with active control or monitoring by a person, without active control or monitoring by a person, or both with or without active control or monitoring by a person.
- (3) "Personal delivery device operator" means an agent of an eligible entity who exercises direct physical control over, or monitoring of, the navigation and operation of a personal delivery device. "Personal delivery device operator" does not include, with respect to a delivery or other service rendered by a personal delivery device, the person who requests the delivery or service. "Personal delivery device operator" also does not include a person who only arranges for and dispatches a personal delivery device for a delivery or other service.

(B) An eligible entity may operate a personal delivery device on sidewalks and crosswalks so long as all of the following requirements are met:

- (1) The personal delivery device is operated in accordance with all regulations, if any, established by each local authority within which the personal delivery device is operated.
- (2) A personal delivery device operator is actively controlling or monitoring the navigation and operation of the personal delivery device.
- (3) The eligible entity maintains an insurance policy that includes general liability coverage of not less than \$100,000.00 for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity.
- (4) The device is equipped with all of the following:
  - (a) A marker that clearly identifies the name and contact information of the eligible entity operating the personal delivery device and a unique identification number;
  - (b) A braking system that enables the personal delivery device to come to a controlled stop;
  - (c) If the personal delivery device is being operated between sunset and sunrise, a light on both the front and rear of the personal delivery device that is visible in clear weather from a distance of at least 500 feet to the front and rear of the personal delivery device when directly in front of low beams of headlights on a motor vehicle.

(C) No personal delivery device operator shall allow a personal delivery device to do any of the following:

- (1) Fail to comply with traffic or pedestrian control devices and signals;
- (2) Unreasonably interfere with pedestrians or traffic;

- (3) Transport any hazardous material that would require a permit issued by the public utilities commission;
- (4) Operate on a street or highway, except when crossing the street or highway within a crosswalk.
- (D) A personal delivery device has all of the rights and obligations applicable to a pedestrian under the same circumstances, except that a personal delivery device shall yield the right-of-way to human pedestrians on sidewalks and crosswalks.
- (E) (1) No person shall operate a personal delivery device unless the person is authorized to do so under this section and complies with the requirements of this section.
  - (2) An eligible entity is responsible for both of the following:
    - (a) Any violation of this section that is committed by a personal delivery device operator; and
    - (b) Any other circumstance, including a technological malfunction, in which a personal delivery device operates in a manner prohibited by divisions (C)(1) to (4) of this section.

(Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

**State Law reference**— (ORC 4511.513)

### **373.01 CODE APPLICATION TO BICYCLES.**

- (A) The provisions of this Traffic Code that are applicable to bicycles and electric bicycles apply whenever a bicycle or electric bicycle is operated upon any street or upon any path set aside for the exclusive use of bicycles.
- (B) Except as provided in subsection (D) of this section, a bicycle operator or electric bicycle operator who violates any section of this Traffic Code described in subsection (A) of this section that is applicable to bicycles or electric bicycles may be issued a ticket, citation or summons by a law enforcement officer for the violation in the same manner as the operator of a motor vehicle would be cited for the same violation. A person who commits any such violation while operating a bicycle or electric bicycle shall not have any points assessed against the person's driver's license, commercial driver's license, temporary instruction permit, or probationary license under ORC 4510.036.
- (C) Except as provided in subsection (D) of this section, in the case of a violation of any section of this Traffic Code described in subsection (A) of this section by a bicycle operator, electric bicycle operator or ~~by a~~ motor vehicle operator when the trier of fact finds that the violation by the motor vehicle operator endangered the lives of bicycle riders or electric bicycle riders at the time of the violation, the court, notwithstanding any provision of this Traffic Code to the contrary, may require the bicycle operator, electric bicycle operator or motor vehicle operator to take and successfully complete a bicycling skills course approved by the court in addition to or in lieu of any penalty otherwise prescribed by the Traffic Code for that violation.
- (D) Subsections (B) and (C) of this section do not apply to violations of Section 333.01 of this Traffic Code. (ORC 4511.52)
- ~~(E) The provisions of this Traffic Code shall apply to bicycles and electric bicycles except those which by their nature are not applicable.~~

(Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

**State Law reference—** (ORC 4511.52)

**373.015 ELECTRIC BICYCLES REGULATIONS; PERMITTED USE; VIOLATIONS.**

- (A) (1) Manufacturers and distributors of electric bicycles shall permanently affix a label, in a prominent location, to each electric bicycle. The label shall specify whether the electric bicycle is a class 1, class 2, or class 3 electric bicycle, the top assisted speed that the electric bicycle is capable of reaching, and the motor wattage of the electric bicycle.
- (2) No person shall modify an electric bicycle in a manner that changes the top assisted speed that the electric bicycle is capable of reaching unless the person also modifies the label required under subsection (A)(1) of this section to reflect the modification.
- (B) (1) The manufacturer of an electric bicycle shall ensure that the electric bicycle complies with the equipment and manufacturing requirements for bicycles established by the consumer product safety commission under 16 C.F.R. 1512 et seq.
- (2) The manufacturer shall manufacture all class 1 electric bicycles and class 3 electric bicycles so that when the rider ceases pedaling the electric motor ceases to provide assistance. The manufacturer shall manufacture all class 2 electric bicycles so that when the rider applies the brakes or releases or activates a switch or similar mechanism the electric motor ceases to provide assistance.
- (3) All class 3 electric bicycles shall be equipped with a speedometer that displays the speed of the electric bicycle in miles per hour.
- (C) (1) The operation of a class 1 electric bicycle and a class 2 electric bicycle is permitted on a path set aside for the exclusive use of bicycles or on a shared-use path, unless the county, city or state agency as defined in O.R.C. 1.60 with control over the path by resolution, ordinance, or rule prohibits the use of a class 1 electric bicycle or class 2 electric bicycle on such a path.
- (2) No person shall operate a class 3 electric bicycle on a path set aside for the exclusive use of bicycles or a shared-use path unless that path is within or adjacent to a highway or the county, township, municipal corporation, or local authority, or state agency as defined in ORC 1.60 with control over the path by resolution, ordinance, or rule authorizes the use of a class 3 electric bicycle on such a path.
- (3) No person shall operate a class 1 electric bicycle, a class 2 electric bicycle, or a class 3 electric bicycle on a path that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use, unless the county, township, municipal corporation, other local authority, or state agency as defined in O.R.C. 1.60 with control over the path by resolution, ordinance, or rule authorizes the use of a class 1 electric bicycle, a class 2 electric bicycle, or a class 3 electric bicycle on such a path.

(4) Subsections (C)(2) and (3) of this section do not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle while in the performance of the officer's duties.

(D) (1) No person under 16 years of age shall operate a class 3 electric bicycle; however, a person under 16 years of age may ride as a passenger on a class 3 electric bicycle that is designed to accommodate passengers.

(2) No person shall operate or be a passenger on a class 3 electric bicycle unless the person is wearing a protective helmet that meets the standards established by the consumer product safety commission or the American society for testing and materials.

(E) (1) Except as otherwise provided in this ~~division-subsection~~, whoever operates an electric bicycle in a manner that is prohibited under subsection (C) of this section and whoever violates subsection (D) of this section is guilty of 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, whoever violates this section is guilty of 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, whoever violates this section is guilty of a misdemeanor of the third degree.

(2) The offenses established under subsection (E)(1) of this section are strict liability offenses and strict liability is a culpable mental state for purposes of ORC 2901.20. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense

(Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

**State Law reference**— (ORC 4511.522)

**373.016. Low-speed micromobility devices**

(A)(1) A low-speed micromobility device may be operated on the public streets, highways, sidewalks, and shared-use paths, and may be operated on any portions of roadways set aside for the exclusive use of bicycles in accordance with this section.

(2) Except as otherwise provided in this section, those sections of this chapter that by their nature could apply to a low-speed micromobility device do apply to the device and the person operating it whenever it is operated upon any public street, highway, sidewalk, or shared-use path, or upon any portion of a roadway set aside for the exclusive use of bicycles.

(B) No operator of a low-speed micromobility device shall do any of the following:

(1) Fail to yield the right-of-way to all pedestrians at all times;

(2) Fail to give an audible signal before overtaking and passing a pedestrian;

(3) Operate the device at night unless the device or its operator is equipped with or wearing both of the following:

(a) A lamp pointing to the front that emits a white light visible from a distance of not less than five hundred feet;

(b) A red reflector facing the rear that is visible from all distances from one hundred feet to six hundred feet when directly in front of lawful lower beams of head lamps on a motor vehicle.

(C)(1) No person who is under sixteen years of age shall rent a low-speed micromobility device.

(2) No person shall knowingly rent a low-speed micromobility device to a person who is under sixteen years of age.

(3) No person shall knowingly rent a low-speed micromobility device on behalf of a person who is under sixteen years of age.

(D) No person shall operate a low-speed micromobility device at a speed greater than twenty miles per hour.

(E)(1) Whoever violates this section is guilty of a minor misdemeanor.

(2) Unless a mens rea is otherwise specified in this section, an offense established under this section is a strict liability offense and O.R.C. 2901.20 does not apply. The designation of that offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(F) Notwithstanding subsection (A)(1) of this section, a municipal corporation, county, township, metropolitan park district, township park district, recreation district, or any division of the department of natural resources if the division has the approval of the director of natural resources may do any of the following:

(1) Regulate or prohibit the operation of low-speed micromobility devices on public streets, highways, sidewalks, and shared-use paths, and portions of roadways set aside for the exclusive use of bicycles, under its jurisdiction;

(2) Include low-speed micromobility devices that are adapted to expand access for people with various physical limitations into a shared bicycle, shared electric bicycle, or similar vehicle sharing program, under its jurisdiction;

(3) Require the owner or operator of a low-speed micromobility device rental service or low-speed micromobility device sharing program to maintain commercial general liability insurance related to the operation of the devices, with limits of up to one million dollars per occurrence and two million dollars per aggregate.

State law reference—ORC 4511.514.



### 373.03 ATTACHING BICYCLE OR SLED TO VEHICLE.

(A) No person riding upon any ~~motorcycle~~, bicycle, electric bicycle, coaster, roller skates, sled, skateboard, or toy vehicle shall attach the same or self to any vehicle upon a roadway.

No operator shall knowingly permit any person riding upon any ~~motorcycle~~, bicycle, electric bicycle, coaster, roller skates, sled, skateboard, or toy vehicle to attach the same or self to any vehicle while it is moving upon a roadway. This section does not apply to the towing of a disabled vehicle.

(B) Except as otherwise provided in this subsection, whoever violates this section is guilty of 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, whoever violates this section is guilty of 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, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under ORC 4511.991.

(Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

**State Law reference**— (ORC 4511.54, ORC 4511.991)

### 373.22. ~~4511.522~~ Electric bicycle requirements, classes, and prohibitions

(A)(1) ~~On and after January 1, 2020, Manufacturers and distributors of electric bicycles shall permanently affix a label, in a prominent location, to each electric bicycle. The label shall specify whether the electric bicycle is a class 1, class 2, or class 3 electric bicycle, the top assisted speed that the electric bicycle is capable of reaching, and the motor wattage of the electric bicycle.~~

(2) No person shall modify an electric bicycle in a manner that changes the top assisted speed that the electric bicycle is capable of reaching unless the person also modifies the label required under division (A)(1) of this section to reflect the modification.

(B)(1) The manufacturer of an electric bicycle shall ensure that the electric bicycle complies with the equipment and manufacturing requirements for bicycles established by the consumer product safety commission under 16 C.F.R. 1512 et seq.

(2) The manufacturer shall manufacture all class 1 electric bicycles and class 3 electric bicycles so that when the rider ceases pedaling the electric motor ceases to provide assistance. The manufacturer shall manufacture all class 2 electric bicycles so that when the rider applies the brakes or releases or activates a switch or similar mechanism the electric motor ceases to provide assistance.

(3) All class 3 electric bicycles shall be equipped with a speedometer that displays the speed of the electric bicycle in miles per hour.

(C)(1) The operation of a class 1 electric bicycle and a class 2 electric bicycle is permitted on a path set aside for the exclusive use of bicycles or on a shared-use path, unless the county, township,

municipal corporation, other local authority, or state agency as defined in O.R.C. 1.60 with control over the path by resolution, ordinance, or rule prohibits the use of a class 1 electric bicycle or class 2 electric bicycle on such a path.

(2) No person shall operate a class 3 electric bicycle on a path set aside for the exclusive use of bicycles or a shared-use path unless that path is within or adjacent to a highway or the county, township, municipal corporation, or local authority, or state agency as defined in O.R.C. 1.60 with control over the path by resolution, ordinance, or rule authorizes the use of a class 3 electric bicycle on such a path.

(3) No person shall operate a class 1 electric bicycle, a class 2 electric bicycle, or a class 3 electric bicycle on a path that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use, unless the county, township, municipal corporation, other local authority, or state agency as defined in O.R.C. 1.60 with control over the path by resolution, ordinance, or rule authorizes the use of a class 1 electric bicycle, a class 2 electric bicycle, or a class 3 electric bicycle on such a path.

(4) Subsections (C)(2) and (3) of this section do not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle while in the performance of the officer's duties.

(D)(1) No person under sixteen years of age shall operate a class 3 electric bicycle; however, a person under sixteen years of age may ride as a passenger on a class 3 electric bicycle that is designed to accommodate passengers.

(2) No person shall operate or be a passenger on a class 3 electric bicycle unless the person is wearing a protective helmet that meets the standards established by the consumer product safety commission or the American society for testing and materials.

(E)(1) Except as otherwise provided in this division, whoever operates an electric bicycle in a manner that is prohibited under subsection (C) of this section and whoever violates subsection (D) of this section is guilty of 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, whoever violates this section is guilty of 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, whoever violates this section is guilty of a misdemeanor of the third degree.

(2) The offenses established under subsection (E)(1) of this section are strict liability offenses and strict liability is a culpable mental state for purposes of O.R.C. 2901.20. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

State law reference—O.R.C. 4511.522.

**377.02 REQUIREMENTS.**

- (A) No person shall operate a motorized bicycle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking, unless all of the following conditions are met:
- (1) The person is 14 or 15 years of age and holds a valid probationary motorized bicycle license issued after the person has passed the test provided for in this section, or the person is 16 years of age or older and holds either a valid commercial driver's license issued under Chapter 4506 or a driver's license issued under ORC Chapter 4507 or a valid motorized bicycle license issued after the person has passed the test provided for in this section, except that if a person is 16 years of age, has a valid probationary motorized bicycle license and desires a motorized bicycle license, the person is not required to comply with the testing requirements provided for in this section;
  - (2) The motorized bicycle is equipped in accordance with the rules adopted under subsection (B) of this section and is in proper working order;
  - (3) The person, if under eighteen years of age, is wearing a protective helmet on the person's head with the chin strap properly fastened and the motorized bicycle is equipped with a rear-view mirror.
  - (4) The person operates the motorized bicycle when practicable within three feet of the right edge of the roadway obeying all traffic rules applicable to vehicles.
- (B) The director of public safety, subject to ORC 119.01 to 119.13, shall adopt and promulgate rules concerning protective helmets, the equipment of motorized bicycles, and the testing and qualifications of persons who do not hold a valid driver's or commercial driver's license. The test shall be as near as practicable to the examination required for a motorcycle operator's endorsement under ORC 4507.11. The test shall also require the operator to give an actual demonstration of the operator's ability to operate and control a motorized bicycle by driving one under the supervision of an examining officer.
- (C) Every motorized bicycle license expires on the birthday of the applicant in the fourth or eighth year after the date it is issued, ~~but in no event shall any~~ based on the period of renewal requested by the applicant. No motorized bicycle license shall be issued for a period longer than four eight years. A person who is sixty-five years of age or older may only apply for a motorized bicycle license that expires on the birthday of the applicant in the fourth year after the date it is issued.
- (D) No person operating a motorized bicycle shall carry another person upon the motorized bicycle.
- (E) The protective helmet and rear-view mirror required by subsection (A)(3) of this section shall, on and after January 1, 1985, conform with rules adopted by the director under subsection (B) of this section.
- (F) Whoever violates subsections (A), (D), or (E) of this section is guilty of a minor misdemeanor.

(Ord. 68-84, 9-4-84; Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

**State Law reference**— (ORC 4511.521)

### 377.05 RIDING.

- (A) Persons riding bicycles, electric bicycles, or motorcycles upon a roadway shall ride not more than two abreast in a single line, except on paths or parts of roadways set aside for the exclusive use of bicycles, electric bicycles, or motorcycles ~~and when practicable and within three feet of the right edge of the roadway obeying all traffic rules applicable to vehicles.~~
- (B) This section does not require a person operating a bicycle or electric bicycle to ride at the edge of the roadway when it is unreasonable or unsafe to do so. Conditions that may require riding away from the edge of the roadway include when necessary to avoid fixed or moving objects, parked or moving vehicles, surface hazards, or if it otherwise is unsafe or impracticable to do so, including if the lane is too narrow for the bicycle or electric bicycle and an overtaking vehicle to travel safely side by side within the lane.
- (C) Except as otherwise provided in this division, whoever violates this section is guilty of 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, whoever violates this section is guilty of 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, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under ORC 4511.991.

(Ord. 68-84. Passed 9-4-84; Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

State Law reference— (O.R.C. 4511.55(B),(C),(D))

### 377.07 MANNER OF OPERATING.

- (A) Every person operating a motorized bicycle or electric bicycle upon a roadway shall ride as near to the right side of the roadway as practical obeying all traffic rules applicable to vehicle and exercising due care when passing a standing vehicle or one proceeding in the same direction.
- (B) This section does not require a person operating a bicycle or electric bicycle to ride at the edge of the roadway when it is unreasonable or unsafe to do so. Conditions that may require riding away from the edge of the roadway include when necessary to avoid fixed or moving objects, parked or moving vehicles, surface hazards, or if it otherwise is unsafe or impracticable to do so, including if the lane is too narrow for the bicycle or electric bicycle and an overtaking vehicle to travel safely side by side within the lane.
- (C) Except as otherwise provided in this chapter, whoever violates this section is guilty of 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, whoever violates this section is guilty of 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, whoever violates this section is guilty of a misdemeanor of the third degree.

Codifier: Added material is underlined, deleted material is struck through.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under ORC 4511.991.

(Ord. 122-82. Passed 12-21-82; Ord. No. 0050-2021, § 1(Exh. A), 9-7-21)

**State Law reference**— (ORC 4511.55(A), (C), (D), ORC 4511.991)

Section 7. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule, or regulation adopted or issued in pursuance thereof shall be punished by a fine or imprisonment, or both. The fine shall not to exceed five hundred dollars (\$500.00) and imprisonment shall not exceed six months.

Section 8. If any section, subsection, sentence, clause, phrase or portion of the Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The governing authority of the City of Gahanna, Ohio hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

Section 9. All ordinances and parts of ordinances in conflict herewith are expressly repealed.

Section 10. The adoption date of this ordinance is \_\_\_\_\_ and the effective date of this ordinance shall be \_\_\_\_\_.

ORDAINED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

City of Gahanna, Ohio

\_\_\_\_\_  
Mayor

APPROVED AS TO CONTENT, FORM AND LEGALITY:

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
Clerk of Council

Certification of Adoption

I certify that the foregoing ordinance was duly passed by the governing authority of the City of Gahanna, Ohio on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Clerk of Council