

A PLAN FOR MISDEMEANOR  
SENTENCING IN OHIO

Volume 2  
Traffic Proposals

A Report of the  
Ohio Criminal Sentencing Commission

Chief Justice Thomas J. Moyer, Chair  
David J. Diroll, Executive Director, Editor

November 1, 1998

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## **ACKNOWLEDGEMENTS**

The Traffic Committee of the Ohio Criminal Sentencing Commission originated most of the changes presented in this report. Meeting once or twice a month for several years, the Committee reviewed the penalties for numerous traffic offenses and sought input from an array of interests.

Police Chief Woody Eldredge, Highway Patrol Lt. Col. Ken Morckel and Capt. J.P. Allen, Sheriff Gary Haines, Defender Becky Herner, Prosecutor John Madigan, Bureau of Motor Vehicles' Chief Counsel John Guldin, and Judge Reggie Routson formed the core Commission and Advisory Committee members on the Traffic Committee. Others members who participated at times included Sheriff Loran Alexander, victims' representative Sharon Boyer, Mayor Larry Braun, Judge Larry Deis, Judge Jim Kimbler, Prof. Max Kravitz, Atty. Jim Kura, Judge Jeff Payton, and County Commissioners' representative Mike Toman. Cheryl Hawkinson played a significant staff role.

Several nonmembers made long-term, critical contributions to the Traffic Committee. Foremost were Judge John Adkins of the Circleville Municipal Court and Judge William Lauber of the Lima Municipal Court, Michelle Chippas and Alicia Gray of Mothers Against Drunk Driving (MADD), Attorney Pat Foley of BMV, attorneys Cleve Johnson and Ken Bossin, and Dr. Alfred Staubus of Ohio State University. Other contributors were Paddy Batchelder of MADD, Joe Cannon of the Department of Public Safety, Denise Foster of BMV, Cpl. David McMannis of the Franklin County Sheriff's office, attorney Jerry Phillips, Deb Stewart of the State Bureau of Adult Detention, and Sheila Tulloch of Families Against Negligent Drivers.

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## **EXECUTIVE SUMMARY**

When the average citizen commits an offense, it usually involves a violation of the Traffic Law. The Commission seeks to reorganize the Traffic Code (Title 45) and to make it more understandable to drivers and practitioners.

### **Operating a Vehicle Under the Influence**

- A presumption of OVI would be created.
- A new physical control offense would be created.
- 3<sup>rd</sup> party vehicle seizures would be eliminated and the wrongful entrustment law expanded.
- Convictions from other states and under Federal law would count as prior offenses.
- Penalties would be consolidated within the offense and cumbersome or redundant provisions eliminated.
- A 1<sup>st</sup> felony OVI would be an F-5, rather than F-4, but current mandatory terms would remain.
- Limited driving privileges with restricted plates would be allowed during suspensions, provided the "hard" suspension period is served first.
- The reinstatement fee for refusing to submit to chemical tests would be made higher than for those who submit.
- Certified lab reports could be used in lieu of expert testimony, unless the defendant objects.
- *Per se* levels for serum and plasma would be set.
- The Criminal Rules, not the Traffic Rules, would apply to felony OVIs.
- ALS appeals procedures would be amended.

### **Vehicular Deaths**

- Vehicular death offenses would be put in one statute.
- The penalty for drunken vehicular homicides would increase and be easier to prove.
- A new vehicular manslaughter misdemeanor would cover deaths from accidental traffic violations in situations in which juries are reluctant to find guilt today.
- Penalties would increase by one degree if the offender was DUS or had three prior drunken driving convictions.
- Minor traffic violations would be removed from the involuntary manslaughter law, but unclassified regulatory offenses--not clearly covered today--would be covered by involuntary manslaughter.
- Parallel changes would be made in the vehicular assault law.

## License Suspensions

- Most suspension law would be gathered in one chapter, with more consistent terminology.
- Each suspension would be placed in a classification with standard lengths.
- DUS would continue to be an M-1 if a person drives during the suspension period, but it would be an M-3 for drivers who merely fail to comply with reinstatement requirements after a suspension period ends.
- Driving without a valid license would remain an MM if the license was expired for no more than six months, but would be an M-4 if more than six months elapsed (with higher penalties for subsequent offenses).
- Arrests would be permitted for driving under suspension on private roads (e.g., at shopping malls).
- So-called "occupational" privileges would expand to allow driving for other limited purposes during suspensions. New "limited driving privileges" would cover occupational, educational, vocational, and medical purposes, taking a driver's license exam, court-ordered treatment, or other reasonable purposes.
  - To minimize the impact on jobs and families and to reduce the number of DUSs, limited privileges could be granted under court imposed suspensions any time they are not prohibited by statute.
  - For BMV suspensions, there would be no privileges unless allowed by statute and granted by a court.
  - Driving privileges would be allowed during drug offense suspensions.
  - Anyone granted privileges after serving the "hard" part of an OVI suspension would have to display restricted license plates as a condition of driving.
- Immobilizing or disabling devices and appropriate prototypes would be allowed as a condition of any suspension, unless expressly prohibited.
- The affirmative defense for "emergency" driving would apply to all suspensions under Titles 45 and 29 and to driving under other restrictions.
- A remedial driving course could be required before the return of driving privileges after a court imposed suspension, without a points reduction, even if the person already completed the course to remove points.
- Vehicle size or load limit violations, fitness requirements, and registration violations would be exempted from "points", since they do not relate to

driving *per se*.

- Points for motor vehicle felonies and for using a vehicle in a crime would be repealed, since they have little practical value and usually bear no direct relationship to highway safety.
- Six points would be reserved for serious offenses. Thus, unauthorized use of a vehicle (being late to return it or joy riding) would carry two points instead of six, while vehicular manslaughter and assault would be added as six point violations.
- Points for speeding, now based on the number of convictions in a year, would instead depend on the speed over the posted limit.
- Juveniles would be subject to suspension for accumulating six points in two years, with limited driving privileges available. When multiple offenses are cited, points would be given only for the most serious violation.
- A lifetime suspension could be modified after 15 years if the person shows various things indicating responsibility and sobriety at a court hearing at which the victim and others can appear. On conviction for a violation carrying a suspension, the court could reimpose the suspension.
- There would be a suspension for failing to stop after an accident.

### **Speeding**

- A court appearance (with possible defender and jury costs) for a 2<sup>nd</sup> speeding in one year would no longer be needed; the offense would be an MM, rather than an M-4.
- A suspension for chronic speeding would be added (3<sup>rd</sup> and subsequent offenses within a year).
- Rather than assess points based on both speed and the number of convictions in a year, points should be tied solely to the speed over the limit.

### **Financial Responsibility**

- Courts could grant limited driving privileges, without waiting 31 days, on 1<sup>st</sup> conviction if the offender shows proof of FR. On 2<sup>nd</sup> offense, the court could grant privileges, with proof of FR, after 15 days. No privileges would be allowed for subsequent convictions.
- A person who receives a lower-level court suspension would have to maintain proof of FR for three years, instead of the current five. The five year period would remain for those who receive higher level suspensions.

## **Arrests**

- To reduce the number of unnecessary arrests, a ticket would suffice in lieu of arrest even when the driver refuses to sign a citation.
- The court could establish, by local rule, a reasonable surety for unlicensed persons so they do not have to be brought to court when stopped.
- No driving privileges would be allowed when a license is suspended for failing to heed an officer's order.

## **Other Proposals**

- A traffic misdemeanor could seek expungement as a "first offender". But, a prior OVI would preclude expungement and neither a DUS nor an OVI could be expunged.
- The \$15 fee to defray BMV's costs when offenders fail to appear, forfeit bond, etc., would be paid directly to BMV, rather than through the courts.
- A person would not need a commercial driver's license for occasionally transporting property (e.g. using a "U-Haul" truck).
- Driving school law license violations would be classified; persons with certain convictions would be disqualified from running the schools; and the school could not use an unsafe vehicle in any manner.

## **OPERATING A VEHICLE WHILE UNDER THE INFLUENCE AND RELATED CHANGES**

The Commission worked to simplify and address gaps in the law governing operating a vehicle while under the influence of alcohol or other drugs (OVI).

### **SIMPLIFICATION**

Criminal penalties in chapters outside the Criminal Code (Title 29) tend to appear in ".99" sections. However, in Title 29 the penalties appear in the substantive sections that describe the crimes. This is very convenient to practitioners. Because so many sections in the Traffic Code (Title 45) bear penalties, and since the penalties often are very complex, the Commission proposes merging penalties into substantive offenses in Title 45, as was done with Title 29. At the very least, the Commission would create an exception for drunken driving and related offenses. When this idea was put before judges, prosecuting and defense attorneys and other practitioners, it met with nearly universal approval.

Currently, several sections spell out penalties for drunken driving (e.g., §§4511.19, 4511.191, 4511.99, & 4507.16). The Commission's draft consolidates much of this in proposed §4511.19, which would allow repeal of various other sections or parts of sections. For example, the Commission suggests moving all of §4511.99's penalties into the sections describing the offenses, including §4511.19. §4511.99 would be repealed. Similarly, the draft internally condenses some of §4511.19's language to enhance readability (e.g., the rules for distribution of fines in OVI cases were streamlined in proposed §4511.19(M) and the house arrest language was put in one place in proposed §4511.19(K)).

The offense is referred to as operating a vehicle under the influence ("OVI"), rather than operating a *motor* vehicle under the influence ("OMVI"), since it can be committed in vehicles without motors.

### **PENALTIES**

Since the General Assembly recently amended these penalties, and frequent changes to the law have engendered confusion, the

Commission suggests only subtle—but meaningful—changes to the basic penalties for drunken driving.

### **Prior Offenses**

To determine OVI penalties, the court needs to know how many prior offenses were committed by the defendant. A definition of "equivalent offense" would be added to standardize and streamline priors. It would include equivalent offenses under former law, municipal ordinances, aggravated vehicular homicide and assault when OVI, other states' law, and Federal law. Note the clear addition of OVIs from other states and Federal law as prior offenses. This should give a truer criminal history. The proposal also eliminates unintended confusion in the law today, which mentions "substantially equivalent" and "substantially similar" conduct somewhat interchangeably. (Proposed §4511.19(N))

The Commission would keep the provision that an underage violation (§4511.19(B)) not be used as a "prior" to enhance the penalty for a violation of division (A). It is unfair to charge a person as a 2<sup>nd</sup> offender if the person earlier was found guilty under a lesser standard (i.e., testing below .10 while under age 21). If over 21, that person should be charged as a 1<sup>st</sup> offender. Also, (B) does not carry the same penalties and equivalent elements as (A), so it should not be used as an enhancement of the penalties for a violation of (A). (Proposed §4511.19(C))

Aside from some refinements to the suspensions law and the subtle change in the 4<sup>th</sup> OVI penalty, below, no other amendments were proposed to the penalty provisions. However, the language would be streamlined greatly.

### **Changes Re 4<sup>th</sup> OVI Penalty**

The draft reclassifies the 1<sup>st</sup> felony offense (4<sup>th</sup> OVI in six years) as a fifth degree felony (F-5). Currently, it is an F-4. Yet, it carries a jail term of up to one year. Since one year is the maximum term of incarceration for an F-5 (it is 18 months for an F-4), it makes sense to make the crime an F-5. The one year maximum would remain, as would current mandatory terms. (The 2<sup>nd</sup> felony would remain an F-4. And the 1<sup>st</sup> three offenses in six years would remain M-1s.) (Proposed §4511.19(G))

One bit of confusion deserves mention. The mandatory penalties (incarceration & license suspension) remain the same for the 4<sup>th</sup> OVI in six years, irrespective of its

reclassification as an F-5. However, as now, this is the only felony that does not carry a prison term. Since the penalty is new (1996), the Commission chose not to second guess the General Assembly.

Practitioners should note that, while prison is not an option, the offender can be sentenced to a community-based correctional facility for treatment (misdemeanants are not eligible for CBCFs). As with other felons, and unlike misdemeanants, the 4<sup>th</sup> OVI offender forfeits civil rights (e.g., jury service, public office).

#### **Rules; Clarifications**

Since some OVIs are felonies, while others are misdemeanors, there is confusion over whether the Criminal Rules or the Traffic Rules apply. The draft clarifies that the Traffic Rules would *not* apply to *felony* OVIs. (Proposed §4511.19(P))

Also, while continuing the possibility of sentences in addition to those mandated (e.g., community control), the proposal clarifies that the additional time or fines under the OVI law supercede the basic sentence ranges for the offense level. (Proposed §4511.19(G))

#### **SUSPENSION, PRIVILEGES, AND RESTRICTED PLATES**

Mandatory ("hard") suspension periods for OVI would remain, during which judges could not grant limited driving privileges. The hard period would be the first 15 days on 1<sup>st</sup> offense (in six years), 30 days on 2<sup>nd</sup> offense, 180 days on 3<sup>rd</sup> offense, and one year on 4<sup>th</sup> and subsequent offenses. (Proposed §4511.19(G) & 4510.13(A)) Limited privileges would be available once the hard suspension period ends. The purposes would expand beyond occupational privileges to include education and other goals (see §4501.01 and Driving Privileges During Suspensions, below).

While the hard suspension periods would be shorter than under current law, on 2<sup>nd</sup> and subsequent violations, the court could not grant driving privileges without the use of restricted plates (discussed later). (Proposed §4511.19(L))

Current license suspensions for OVI would be placed in the appropriate classes under new §4510.02. Related driving privileges would move from §4507.16 to new §4510.13.

## SERUM AND PLASMA LEVELS

Currently, the law sets levels over which a driver is "per se" under the influence of alcohol. These exist for blood-, breath-, and urine-alcohol content. Arguably, there is an oversight in the law, since no *per se* levels are set for blood serum and plasma. At the suggestion of a Department of Health committee, *per se* levels were developed for them. The level would remain at 0.10 for a whole blood test. It would be set at .12 for serum or plasma, since the concentration of alcohol is between 18% and 23% higher in serum and plasma than in whole blood. (Proposed §4511.19(A)(3) and elsewhere)

A similar change would be made to the underage OVI provisions. The *per se* range for serum and plasma would be from .03 to .12. (Proposed §4511.19(B)(2))

## LAB REPORTS IN LIEU OF EXPERTS; PHLEBOTOMISTS

Currently, expert testimony is needed to admit hospital blood tests as evidence in OVI cases. Yet, current practice in drug cases is simpler.

The proposal would allow the admission of reports from laboratories certified by the Department of Health as *prima facie* evidence. This will reduce the need for expert testimony and make the law similar to drug cases, where the lab report is all that is needed, unless the defendant requests testimony. The person who withdrew the blood would have to testify only if the defendant demands the testimony within seven days of receipt of the test results. The proposal specifies the contents of the lab report, including a requisite that the report be signed, under oath, by the tester. (Proposed §4511.19(E))

Also, the proposal would authorize a qualified phlebotomist—often available and less expensive—to draw blood for tests, in addition to the physicians, nurses, technicians, and chemists now permitted to do so. (Proposed §4511.19(D)(1))

## IMPLIED CONSENT; REDUCING TEST REFUSALS

By law, everyone who drives gives implied consent to chemical tests to determine whether the person is under the influence of alcohol or another drug (§4511.191). Nevertheless, many persons refuse to submit to tests when stopped. In part, this is because the law contains other provisions that inadvertently discourage testing.

According to the Bureau of Motor Vehicles (BMV), there were 17,395 refusals statewide in 1996. The Highway Patrol reports that the level of refusal is 32% statewide and 60% in Franklin County. In light of this, the Commission worked to find ways to encourage more drivers to submit to tests.

### **Presumption of OVI**

The draft encourages drivers to submit to a blood or breath test by creating a rebuttable presumption that a person was under the influence at the time of arrest if the person refuses to submit to the test. (Proposed §4511.19(D)(4))

### **"Consequences" Form**

The form read by law enforcement officers to those arrested for OVI would be simplified and placed in proposed §4511.192. (Current §4511.192(B), governing emergency driving privileges while under an OVI suspension, would move to §4510.04.) The form covers the consequences of submitting to or refusing the chemical test. It would simply state: if you submit to the test and are found to be over the legal limit, you face an immediate license suspension and will have to pay a fee to get it back. If you refuse the test, you face a presumption that you were OVI, an immediate license suspension, and payment of a "substantially higher" reinstatement fee. (Proposed §4511.192(B))

The officer would also tell the person that he or she may have an independent test taken at the person's expense.

### **Reinstatement Fee Change**

Currently, the license reinstatement fee for someone who submits to the test is more than for someone who refuses. The tested person pays \$500 to get a license back (\$250 for testing over the legal limit and \$250 for the administrative license suspension (ALS) that accompanies the failed test). The person who refuses pays only \$250 for the ALS.

This seems backward. It encourages refusals and penalizes those who comply by submitting to the test.

The reinstatement fee should be set at \$530 for refusal and \$280 for testing above the legal limit. This includes the \$30 fee to BMV recently added to the law for processing paperwork. (Proposed §§4511.191(F)(2)(f) & 4511.19(H))

### **Driving Privileges; Credit for Related Suspension; Etc.**

The court could not grant limited driving privileges unless the person rebutted the presumption of OVI triggered by the refusal, pleaded guilty or no contest and was found guilty of the OVI, or the administrative license suspension appeal was granted. If a defendant who refused is convicted at trial, driving privileges would not be available.

The credit for a related suspension would be repealed since the Registrar generally cannot credit a prior court suspension (current §4511.191(K), 2<sup>nd</sup> par.). Courts would be able to credit the suspension previously served against the suspension imposed as part of the sentence.

Also, license suspensions would be placed in appropriate classes under new §4510.02(B). (Proposed §4511.191(B))

### **NEW PHYSICAL CONTROL OFFENSE**

Sometimes a person is charged with OVI while in a stationary vehicle. Case law says a person in a position to operate the vehicle can be convicted of "operation". The Commission found that this can discourage inebriated persons from pulling off the road, or from simply sitting in their cars until sober enough to drive. In fact, these OVI charges often are reduced to reckless operation (a legal fiction), which can be a minor misdemeanor (MM). The Commission proposes a physical control offense to address these situations. Many municipalities have such an offense, as did the State several years ago.

The new offense should proscribe being in actual physical control of a stationary vehicle while under the influence of alcohol, drugs, or both. (Proposed §4511.194(A)) It is designed to cover situations where the person had no obvious intent to operate the vehicle.

The proposed offense would be an M-1, which is the same as most OVIs, however, it would not carry OVI's mandatory jail terms and suspensions. (Proposed §4511.194(B)) While not quite as harsh as for an OVI conviction, the penalty would be substantially higher than MM reckless operation.

Today, a reduction of an OVI to reckless operation does not count as a prior offense if the driver commits a subsequent OVI. Likewise, the new physical control offense would not be enhanced by a prior OVI conviction, nor would it be considered a prior for a subsequent OVI offense. But, the

M-1 penalty also includes a Class 6 suspension (the same as for reckless operation).

Given the vagaries of case law and the felony implications of the term, the Commission suggests that "operate" be defined to mean "to cause or have caused movement of a vehicle on any public or private property used by the public for the purposes of vehicular travel or parking." (Proposed §4511.01(GGG))

### **WRONGFUL ENTRUSTMENT REPLACES THIRD PARTY SEIZURES**

Currently, arresting officers must immobilize and seize the vehicle operated by a person arrested for OVI, if the person has a prior OVI in the past six years. The seizure must take place irrespective of whether the driver owns the car. The Ohio Supreme Court recently questioned this practice.

The Commission would limit immobilization and forfeiture in OVI cases to when the vehicle is registered in the name of the person operating it at the time of the offense. Third party vehicle forfeitures would be eliminated. (Proposed §4511.195) Parallel changes would be made to §§4511.19(G), 4511.193, and 4507.38 (which would become §4510.41), bringing them into compliance with the Supreme Court's ruling. Similarly, the general immobilization law of §4503.233 and forfeiture law of §4503.234 would no longer contain language on 3<sup>rd</sup> party vehicles. Technical changes also would be made in these sections.

However, the Commission felt that a 3<sup>rd</sup> party should bear some culpability for entrusting a vehicle to someone with a suspended license, someone without financial responsibility, or a drunken driver. The wrongful entrustment statute (§4507.33) would move to Ch. 4511 and include a rebuttable presumption that a person who lets another operate a vehicle knew or should have known that the person did not have a valid license, did not have insurance, or would drive drunk if the owner: (1) was in the vehicle at the time of the offense; or (2) resided in the same household.

In short, a 3<sup>rd</sup> party's vehicle could not be seized, immobilized, or forfeited unless the 3<sup>rd</sup> party is an owner who is charged with wrongful entrustment. Also, the court could impose a Class 6 suspension for a violation. (Proposed §4511.203)

In light of these changes, the "innocent owner" statute would be repealed (§4503.236). That statute made it very difficult to show that the 3<sup>rd</sup> party, who allowed the person to drive the vehicle, knew the person was under suspension or was not allowed to operate a vehicle. Also, the current DUS provision (§4507.02(A)(2)) that prohibits permitting a person to drive without a valid license would be repealed.

Along with changes to eliminate 3<sup>rd</sup> party forfeitures, the law should state that a person whose vehicle impoundment was unauthorized cannot be charged storage or towing fees. Rather, the fees would be paid by the State or local entity that has jurisdiction over the law enforcement agency that impounded the vehicle. (Proposed §4511.195(D)(1)(d))

### **TREATMENT REFINEMENTS**

The draft would make treatment optional for prison-bound offenders, since it is difficult to guarantee treatment in prison. It would carry over current law making the offender pay the costs of treatment, but make clear it applies to 1<sup>st</sup> offenders, too. (Proposed §4511.19(I)(2))

### **DRIVING UNDER OVI SUSPENSION**

Driving under an OVI suspension would move from §4507.02(D)(2) to the new suspensions chapter. The offense would remain an M-1 with a mandatory jail term. The penalty would include a Class 6 suspension. The court could not grant limited driving privileges unless the person displayed restricted plates. The vehicle could not be impounded or immobilized unless registered in the name of the person driving it at the time of arrest. (Proposed §4510.14)

Other technical changes would be made to mirror changes to the OVI law, including the six year look-back for priors and the inclusion of violations of Federal, other states', and former law as priors. Language should make clear here and in OVI law that general sentencing law applies so that other penalties (e.g., up to six months in jail on 1<sup>st</sup> offense) could be imposed.

Separately, the emergency affirmative defense in §4507.02(E) would move to the more generic §4510.04 (also below).

## **ALS APPEAL**

The administrative license (ALS) appeal procedure would move from current §4511.191(H), (I), (J) and part of (K) to proposed §4511.197. It would allow a person to file an appeal of the ALS within 30 (instead of the current five) days from the date of initial appearance or arraignment on the charge. The appeal would be filed in the court that first had jurisdiction over the charge unless the case was transferred to another court before filing the ALS appeal.

The credit for a related suspension would be repealed since the Registrar cannot credit a court suspension for a previous court suspension. A court could credit pretrial suspension time to the sentence imposed. Also, technical changes would be needed to add the proposed *per se* levels of alcohol in blood serum or plasma.

The statute covering the initial appearance for OVI (§4511.196) would be amended simply to incorporate changes to related sections.

## **LIMITING THE DEFINITION OF VEHICLE**

§4511.01 should be amended to exclude bicycles or other devices being moved by human power. The upshot is that drunken cycling, pushing a vehicle while under the influence, and the like would not fall under OVI. The idea here is to limit the scope of Title 45 to motor vehicles.

## **BOATING OVIs**

The law governing boating OVI would follow the format of proposed §4511.19 for land vehicles. It would include percentages of blood serum or plasma, allow a certified copy of the hospital test as *prima facie* evidence, authorize phlebotomists to draw blood, and define "equivalent" offenses. But the penalties would not be identical to those for OVIs on land, largely because there is no boat operator's license to suspend. (Proposed §1547.11)

Similarly, the format of the watercraft implied consent law would track OVI's, but, since there is no operator's license to suspend, there would be no presumption of OVI on refusal to submit to a chemical test. (Proposed §1547.111)

On recommendation of the Department of Natural Resources, the offense would focus on the boat operator, with water

skis, aquaplanes, or other devices no longer covered by this statute. (Proposed §1547.11(A)&(B))

## **VEHICULAR DEATHS**

The Commission found several problems with the laws governing deaths and injuries occurring in traffic accidents. The laws can confuse juries and sometimes lead to unduly lenient, unduly harsh, or inconsistent results.

### **ISSUES IN CURRENT LAW**

Presently, a person who kills another in an automobile accident faces several possible charges. The aggravated vehicular homicide (§2903.06) and vehicular homicide (§2903.07) statutes are largely repetitive and their relationship to the involuntary manslaughter law (§2903.04) is confusing. Also, the penalties are inconsistent.

A "reckless" driver may be guilty of aggravated vehicular homicide, generally an F-3. But, the elements of the crime do not specifically address killing someone while driving drunk. Recklessness must be shown. Juries sometimes find drunken conduct to be reckless and sometimes they do not.

A "negligent" driver may be guilty of vehicular homicide, generally an M-1, or involuntary manslaughter (IM), an F-3. The offenses carry dramatically different penalties. To prove the more serious involuntary manslaughter, the death must have occurred while the offender was committing a misdemeanor, including a minor misdemeanor (MM). Thus, a trucking company that ignores safety regulations, an MM, can be charged with IM if a death results from a truck's brake failure. So, too, can a person who rolls through a stop sign without noticing another car (also an MM), only to strike the car and cause a death. In the latter case, juries have been reluctant to find the driver guilty of a felony. Sometimes juries do not even find the legal "negligence" for an M-1 vehicular homicide conviction.

The penalty for vehicular homicides and assaults increases by one degree if the offender previously committed such a homicide or assault or a drunken involuntary manslaughter. But the penalty does not now increase if the offender had prior drunken driving convictions. Nor does it now increase if the offender was driving with a suspended license.

## **SIMPLIFIED GRADUATED OFFENSES**

The proposal would draw clearer distinctions between felony conduct (serious, intentional, or reckless) and misdemeanor misconduct (negligent or less). It would move minor traffic offenses out of IM and into a new vehicular manslaughter offense. It would merge aggravated vehicular homicide (AVH) and vehicular homicide (VH) into one statute (proposed §2903.06, repealing current §2903.07), since the two are largely repetitive (§2903.07's substantive offense would become §2903.06(B)). And it would make aggravated vehicular assault and vehicular assault (§2903.08) parallel new §2903.06.

### **NEW STRICT LIABILITY OFFENSE FOR DRUNK DRIVERS**

Currently, to receive the toughest aggravated vehicular homicide penalty (F-3 mandatory on 1<sup>st</sup> offense), an offender must be reckless. As noted, drunken drivers are not always found to be legally "reckless".

Since driving drunk and killing someone is the most serious traffic offense, the proposal would create a strict liability AVH when the offender is under the influence under State or local law. Legal recklessness would no longer have to be proved. (Proposed §2903.06(A)(1))

Moreover, the proposal would increase the penalty for drunken AVH to F-2 on 1<sup>st</sup> offense and to F-1 with certain priors. (Proposed §2903.06(B)(1)) This would make the penalty tougher than both aggravated vehicular homicide and involuntary manslaughter today. The offense would carry a mandatory prison term and a lifetime license suspension.

For a person who otherwise causes a death while operating a vehicle in a reckless manner, AVH would remain an F-3, with a Class 1 suspension. A subsequent offense would be an F-2. (Proposed §2903.06(A)(2) & (B)(2))

### **INVOLUNTARY MANSLAUGHTER AND VEHICULAR MANSLAUGHTER**

The proposal would reduce overlap between vehicular homicide and involuntary manslaughter by removing minor misdemeanor traffic violations from the IM law.

The Ohio Supreme Court (*State v. Collins*) held that an MM cannot trigger involuntary manslaughter, an F-3. Responding to a case involving an OSHA violation (that led to brake failure and a death), the General Assembly reversed the Court and made clearer that an MM is covered by the IM law.

However, as noted, juries sometimes see IM's F-3 penalty as

too harsh for negligent or less than legally negligent driving, even when the driving has grievous consequences. Juries have looked to lesser offenses (e.g., M-1 vehicular homicide) or even refused to find criminal "negligence" (defined as a substantial lapse of due care), rendering the offender not guilty. To complicate matters, at least one municipality (Columbus) passed an M-4 VH ordinance.

The Commission agrees that systematically elevating a minor strict liability offense, such as speeding, to an F-3 is harsh. After all, the highest potential penalty for speeding is a fine of not more than \$100.

The proposal would keep the M-1 negligent VH offense intact. (Proposed §2903.06(A)(3) & (B)(3)) But, it would move other minor misdemeanor traffic deaths from the IM law (§2903.04(B)) into a new strict liability vehicular manslaughter (VM) crime. It would be an M-2 on 1<sup>st</sup> offense and an M-1 on subsequent violations. Unlike current misdemeanor VH law, the proposal would clearly require a license suspension for VM. (Proposed §2903.06(A)(4)&(B)(4))

The new VM offense would help fill the gap when juries are reluctant to make "accidental" conduct an F-3 IM or do not find the legal negligence sufficient for a VH conviction, while eliminating overlap between minor misdemeanor traffic homicides and IM. However, since VM relates only to an MM traffic offense resulting in a death, it is not a lesser included offense to either AVH or VH.

All negligent vehicular deaths resulting from minor misdemeanor traffic violations would be in the misdemeanor realm, since greater culpability (e.g., reckless or intentional conduct) is generally required to make someone a felon. Remember, however:

- Reckless conduct would remain aggravated vehicular homicide, which is at least an F-3;
- Drunken conduct would be at least an F-2 AVH;
- M-4 or higher traffic offenses could still result in an IM (F-3) conviction;
- Non-traffic minor misdemeanors (such as OSHA violations) would still be under the IM law; and
- A license suspension would now be available for a death resulting in a VM conviction.

Also, as with AVH, a person convicted of IM for an OVI that leads to a death, faces a mandatory prison term and a lifetime suspension, as now. (Proposed §2903.04(D)(2))

## **VEHICULAR ASSAULTS**

Parallel changes would be made in the vehicular assault law (§2903.08). Aggravated vehicular assault would include a strict liability offense if drunken driving is involved. It would carry a mandatory prison term as an F-3 on 1<sup>st</sup> offense and an F-2 on subsequent offenses. It would carry Class 2 and Class 1 suspensions, respectively. (Proposed §2903.08(A)(1) & (B)(1))

When a person operates a vehicle recklessly and causes serious physical harm, the offense would remain an F-3 on the 1<sup>st</sup> offense and an F-2 on subsequent offenses. It would carry Class 3 and Class 2 license suspensions, respectively. (Proposed §2903.08(A)(2) & (B)(2))

## **ADDITIONAL PRIORS**

Current law raises the penalty by a degree for certain prior vehicular homicides or assaults or drunken involuntary manslaughters. The proposal would also increase the penalty by one degree if the offender was driving with suspended license or had three prior drunken driving convictions in the past six years (or any prior felony drunken driving conviction). (Proposed §§2903.06(B) & 2903.08(B))

Extant law contains a mandatory prison term for AVH, VH, and AVA if the driver has a 12 point violation suspension (see present §§2903.06(C), 2903.07(C), & 2903.08(C)). Under the draft, *any* DUS would trigger tougher penalties. (Proposed §2903.06(C) & 2903.08(C))

## **DRIVER'S LICENSE SUSPENSIONS**

The license suspension laws are confusing. Suspensions should be standardized, classified, and generally placed in one chapter of the Revised Code unless they clearly fit somewhere else. Fewer terms should be used. Driving privileges during suspension periods should be more consistent. The law should encourage unlicensed people to become licensed drivers again. And a narrow procedure for ending lifetime suspensions should be enacted.

## **STANDARDIZING SUSPENSIONS**

Much of the law governing driver's license suspensions should be gathered in one chapter of the Revised Code. (Proposed Ch. 4510.)

## **Fewer Terms**

Currently, the Revised Code uses several terms to describe suspending or terminating a person's license. The proposal would replace these ("suspend", "cancel", "forfeit", and "revoke") with two terms: suspend and cancel.

"Suspension" would cover the permanent or temporary withdrawal, by a court or BMV, of a temporary instruction permit, probationary license, driver's or commercial driver's license, permit or nonresident operating privilege for the period of the suspension, or the permanent or temporary withdrawal of the privilege to obtain a valid driver's license. (Proposed §4510.01(C))

"Cancellation" would cover the annulment or termination, by BMV, of a permit, license, or privilege that was obtained unlawfully, issued in error, altered, willfully destroyed, or terminated because the person is no longer entitled to it. (Proposed §4510.01(A))

## **Standardizing Classes of Suspensions**

The Commission suggests creating standard classes of driver's license suspensions and placing current and future suspensions into this template.

Suspensions imposed by a court would be from a range for each class. The judge could tailor the suspension to the defendant. For example, a Class 3 suspension would be from one to five years. The judge would chose a specific term from this range, say three years.

Similarly, BMV suspensions would be placed into classes, each with a definite suspension period. For example, every Class C suspension would be for one year. The period would only change if the person complies in some manner (e.g., filing proof of insurance when under a financial responsibility suspension).

If feasible, the suspension class should be stated in the substantive offense, rather than in a separate section (see Simplification, in the OVI discussion above).

To determine the classes and ranges of suspensions, the Commission reviewed each offense that currently carries a license suspension. It looked at the seriousness of the offense, the length of the current suspension, whether the suspension was imposed by a court or BMV, and whether the suspension should be retained.

Generally, the suspensions neutrally convert to the recommended classes (i.e., the new classes carry roughly the same amount of time as the current suspensions). However, the Commission suggests adjusting some suspensions to better conform to the template. Some of the lower-end suspensions (not more than 6 months today) would increase under Class 6 to not more than one year.

Here are the proposed classes. Courts would choose a definite period from the following ranges. Only a court could impose or modify a lifetime suspension. (Proposed §4510.02(A))

- Class 1:** 3 years to life;
- Class 2:** 2 to 10 years;
- Class 3:** 1 to 5 years;
- Class 4:** 6 months to 3 years;
- Class 5:** 3 months to 2 years;
- Class 6:** Not more than 1 year.

BMV suspensions would be the following definite periods (proposed §4510.02(B)):

- Class A:** 3 years;
- Class B:** 2 years;
- Class C:** 1 year;
- Class D:** 6 months;
- Class E:** 3 months;
- Class F:** Until conditions are met.

Sections outside the Traffic Code that contain license suspensions should be amended to reference the appropriate class of suspension in new §4510.02.

#### **DRIVING UNDER SUSPENSION AND RELATED OFFENSES**

§4507.02 currently contains the prohibitions for driving under suspension (DUS), without a valid license, without financial responsibility, and under an OVI suspension. This cumbersome section would be divided into several new sections in proposed Ch. 4510.

#### **Traditional DUS Vs. Driving Without Reinstating License**

Persons are cited for DUS in a couple ways. The more egregious violation involves driving during the suspension period. The less serious offense involves driving after the suspension period ends without first properly

reinstating a license. These different acts carry the same M-1 penalties today. (Current §4507.02(C) & 4507.99(A), 2<sup>nd</sup> sentence)

The M-1 penalty should remain for the person who operates a vehicle during the suspension period. First offenders' vehicles would be immobilized, with plates impounded, for 30 days. Second offenders face a 60 day period of immobilization and impoundment. And subsequent offenders face forfeiture of their vehicles. As now, a vehicle could not be released from immobilization until the offender shows proof of financial responsibility (§4507.02(D), which would become §4510.11).

However, the Commission proposes a new M-3 for drivers who merely fail to comply with formal license reinstatement requirements after the suspension period ends. (§4507.02(C) would become proposed §4510.21)

It should not be so difficult for the person who drives without fulfilling the requirements for reinstatement to become a valid driver. Thus, while the license suspension for DUS would neutrally convert to Class B, the failure to reinstate offense would not carry points, a license suspension, or a reinstatement fee. (Note: If the person fails to comply with the financial responsibility law, the person would still be subject to a suspension under §4510.16.)

#### **Driving Without a Valid License**

Driving without a valid license (now §4507.02(A)(1)), would become §4510.12. The offense would remain an MM if the license was expired for no more than six months, but would be an M-4 if more than six months elapsed. There would not be a license suspension on the 1<sup>st</sup> offense. (Proposed §4510.12(B)(1)&(2))

On a 2<sup>nd</sup> offense in three years, the penalty would be M-3, on a 3<sup>rd</sup> offense in three years, an M-2, and on subsequent offenses in three years, an M-1. (Proposed §4510.12(B)(3),(4),&(5)) For any such 2<sup>nd</sup> or subsequent offender, if the license was expired for more than six months, the offense would carry a Class 6 suspension. (Proposed §4510.12(B)(6))

The language in current §4507(A)(2), which imposes liability for permitting certain persons to operate a vehicle, would be repealed. It is superceded by the proposed wrongful entrustment statute (Proposed §4511.203)

Many persons who do not have a license could get one the next day. Limited driving privileges should be allowed for purposes of obtaining a valid license (see Limited Driving Privileges During Suspensions, below), if financial responsibility is shown.

### **DUS on Private Ways**

An officer cannot now arrest a person for driving under suspension on private roads (e.g., at shopping malls). The proposal would let a law enforcement officer arrest a person for DUS on any public or private property used for vehicular travel or parking. It would carry a Class 6 suspension.

### **LIMITED DRIVING PRIVILEGES DURING SUSPENSIONS**

It is important to minimize the impact of suspensions on offenders' jobs and families and to reduce the number of DUS cases that arise out of necessity. The plan calls for making limited driving privileges available to persons under court-imposed suspensions anytime privileges are not prohibited by statute. Granting privileges would be the judge's option. (Proposed §4510.02(C)) Standardizing privileges will simplify both practice and the Code. (For more on privileges, also see Financial Responsibility Law, below.)

However, for BMV imposed suspensions, driving privileges would not be available unless a statute authorizes them. If allowed, privileges during BMV suspensions would be granted in the discretion of an appropriate court, after the suspended person files a petition. (Proposed §4510.02(C))

Privileges are now called "occupational" privileges. The term is too restrictive since it does not take into account other legitimate reasons for allowing an offender to drive. "Limited driving privileges" should instead cover occupational, educational, vocational, and medical purposes, taking the driver's or commercial driver's license examination, court-ordered treatment, or other reasonable purposes. The granting court would have to specify the purposes, times, and places of the privileges and could impose other reasonable conditions. (Proposed §4501.01(NN))

The changes to the disabling device law, discussed below, should help courts monitor these conditions.

## **DRUG OFFENSE SUSPENSIONS**

Congress persuaded the General Assembly to add driver's license suspensions to various drug offenses in Ch. 2925. These suspensions would be retained, but placed within the new Class 4. (Proposed §§2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36, 2925.37, & 4510.02) The BMV suspension for Ohio drivers who commit similar drug offenses in other states or under Federal law (current §4507.169) would be retained in §4510.17. Redundant language would be removed from these sections.

Currently, there is no prohibition against granting limited privileges during these suspensions. Nor are such privileges clearly authorized. Courts should be allowed to grant driving privileges, if appropriate. The assistant chief legal counsel of the Federal Highway Administration advised the Commission that the proposed definition of limited driving privileges for a drug offense would not jeopardize the State's Federal highway funding.

## **DISABLING DEVICE CHANGES**

Sometimes judges have ignition interlock devices installed to help enforce a suspension. That practice should continue, but the law needs to be standardized and broadened and better allow for technological changes.

Proposed §4510.02(C) would allow the use of immobilizing or disabling devices as a condition of any suspension, unless expressly prohibited.

Proposed §4510.43(A) would expand current law (§4511.83) to cover various devices, including prototypes. The section would define "immobilizing or disabling device" to include a breath-alcohol ignition interlock, an ignition blocking device, an activity monitor, or other devices. A permitted prototype device would include any device used to monitor limited privileges that has yet to be formally approved or disapproved by the Department of Public Safety (DPS).

To limit abuse, the statute should require the court, before ordering use of a prototype, to advise DPS 30 days before use in a pilot program. The court would submit the prototype's protocol, methodology, and manufacturer, along with the duration of the pilot program. Any device that does not monitor alcohol could not be used to monitor driving privileges for OVI or for driving under an OVI suspension. (Proposed §4510.43(A)(2))

## **RESTRICTED PLATES**

A court can order a driver's car to bear special license plates. Currently red figures on a yellow background, the tags are designed to draw attention to drivers who commit certain violations. For some reason they are called "identification" or "family" plates. The Commission would rename the tags as "restricted plates" and promote greater use of them. (Proposed §4503.231)

Specifically, once the mandatory period ends, persons under OVI suspensions could be allowed to drive for limited purposes, but only if they show restricted plates. (Proposed §4511.19(L)) (See Suspension, Privileges, and Restricted Plates in the OVI discussion, above.)

## **STANDARDIZING THE EMERGENCY DEFENSE**

Currently, there is an affirmative defense to driving under suspension, driving under an OVI suspension, or driving an immobilized vehicle because of an emergency (see, e.g., current §§4507.02(E) & 4511.192(B)). The proposal would broaden the defense to all suspensions under Titles 45 and 29. And it would permit it as a defense to driving under other restrictions. (Proposed §4510.04)

## **REMEDIAL DRIVING COURSE**

The court could require a person to successfully complete a remedial driving course as a condition for the return of full driving privileges after a court imposed suspension or as a condition of community control. (Proposed §4510.02(A)) Completing the course should not allow the person to remove any outstanding points from his or her driving record. (Proposed §4510.03(L)) The course could be required even if the person already completed the course to remove two points from the person's driving record.

## **POINTS FOR VIOLATIONS**

The accumulation of "points" for various infractions can lead to a license suspension. The suspension for earning 12 points in two years would be placed in Class D and several other changes to the points law would be made. (Current §4507.021; Proposed §4510.03(K))

Today, points are assessed for "moving violations", but not for parking, seat belt, and pedestrian violations. The proposal would also exempt vehicle size or load limit,

fitness, and registration violations. These do not relate to driving *per se*. Also, the definition of "moving violation" would move from Ch. 2753 to §4510.01(B).

Points for felony violations of the motor vehicle laws and for using a vehicle in the commission of a crime would be repealed. BMV usually does not get a notice of these offenses from common pleas courts. In cases in which the court sends notice, the notice may have little meaning, since the offender often receives a prison term or suspension for the felony. Also, the offenses generally do not bear a direct relationship to safe driving.

All six point violations would be placed together in the statute. (The same would be done with four and two point violations and topics such as OVI.)

The Commission wants to reserve six points for the worst traffic offenses. Current §4507.021(G)(2), which requires six points for unauthorized use of a motor vehicle, would be repealed, thereby reducing the offense to two points under the general language of proposed §4510.03(G)(14). Six points were thought to be too harsh for being late to return a vehicle or for joy riding. However, the new vehicular manslaughter offense (§2923.06(C)) and the vehicular assault offenses would be added as six point violations. Generally, points would not change for other offenses (except speeding, below). (Proposed §4510.03(G))

In related changes, the proposal recognizes that a Federal court may charge points, uses the broader term of "law enforcement officer" rather than "police officer", clarifies that an out-of-state licensee can file in Franklin County for a points appeal, and makes clear that the prosecutor where the case is pending (versus where the person resides) represents BMV in the appeal. (Proposed §4510.03(G) & (N))

### **Points for Speeding**

Points for speeding, now based on the number of convictions in a year, would change. Points would depend on the speed over the posted limit. (Proposed §4510.03(G)(9), discussed in more detail under Speeding, below.)

### **Juvenile Point Suspensions**

Points for moving violations applies equally to juvenile and adult offenders (present §4507.021). However, the rules for "revoking" a child's probationary operator's license based

on points are somewhat different. In particular, a child who is adjudged guilty of three separate moving violations before reaching age 18 must have the probationary operator's license "revoked" for a period of one year.

Since a child's probationary operator's license is currently in effect for a two year period, between the child's 16<sup>th</sup> and 18<sup>th</sup> birthday (§4507.01(A)), the Commission proposes a consolidation of this "revocation" provision with that of adult law. Juveniles should be subject to suspension for accumulating six points in two years (current §4507.162 would become §4510.31). This suspension would replace the current juvenile probationary license suspension. It would work like the 12 point suspension for adults. That is, once a juvenile accumulates six points in two years, a one year suspension would be imposed under Class C. Similarly, limited driving privileges would be more like those granted during adult suspensions.

To keep juveniles from receiving a suspension for multiple offenses arising out of one incident, the draft provides that, when more than one offense is cited, points would be given only for the most serious violation.

#### **Return of Privileges**

The conditions for return of full driving privileges after a point suspension (§4507.022) would become §4510.031, with only technical amendments.

#### **LIFETIME SUSPENSION MODIFICATION**

Lifetime suspensions are imposed for certain vehicular homicides and other serious crimes. Sometimes a person dutifully honors the suspension for several years, but eventually starts driving again. To encourage responsible conduct by giving some reasonable hope for regaining a license, the Commission suggests that lifetime suspensions should be subject to modification *after 15 years* if the person can show various things. Modification could occur only after a court hearing at which the victim and others can appear. (Proposed §4510.54) This would allow a responsible person to demonstrate that he or she deserves another chance to drive.

Here is what the person would have to show:

- 15 or more years elapsed since the suspension began;
- No new conviction for a felony or moving violation;
- Proof of financial responsibility; and

- Proof of sobriety, if the suspension was imposed because the person was OVI.

The person may file as many motions as he or she wishes after 15 years, but may not file another motion after the court has ruled on a motion. Any hearing on the motion would be within 90 days after filing and open to the public. If applicable, the victim of the offense which led to the suspension would have to be notified.

If the court terminates the lifetime suspension, the person could obtain a valid driver's license upon passing the driver's written examination and the road test.

If the court modifies the suspension, the court could grant limited driving privileges or impose any other condition it deems reasonable. Upon conviction for any moving violation that carries a suspension, the court could reimpose the lifetime suspension or change the conditions of the original modification of the lifetime suspension.

#### **OTHER SUSPENSIONS TO BE CONVERTED**

In addition to offenses discussed elsewhere in context, the following suspensions would be reclassified according to the new template under proposed §4510.02.

- Class 1: §2921.331, failure to comply with a law enforcement officer's signal (the suspension for this offense (now §4507.166) should move to this section). Limited driving privileges should not be allowed for any violation. On subsequent offenses, this would carry a lifetime suspension.
- Class 6: §4511.251, street racing; and §4511.75, passing a school bus.
- Class C: §4510.33 (currently §4507.163), using one's license to violate liquor laws.
- Class F: §2301.374, default on child support; §2935.37, alternatives for security compliance; §4510.23 (currently §4507.161), suspension for mental illness (other penalties would be repealed because the section contains no prohibited conduct); §4510.32 (currently §4507.061), suspension for failure to attend school; and §4510.34, "revocation" of a probationary motorized bicycle license.

#### **SUSPENSIONS FOR UNRELATED CRIMES**

There is a trend toward adding suspensions to the penalties for crimes that do not directly relate to traffic safety.

The Commission prefers to use driver's license suspensions as potential penalties when the offense relates directly to the safe operation of a vehicle, or when Federally mandated (see Drug Offense Suspension, above).

If the suspension for endangering children by OVI is retained, the suspension should be placed in Class 6. The section also should be amended to remove community service language in favor of the more generic language in the sentencing law (in proposed §2929.27) and to harmonize with the changes in the OVI law, including the six year look back provision. (Proposed §2919.22(E)(5) & (G))

#### **OTHER RENUMBERED SUSPENSIONS AND RELATED PROVISIONS**

The key license suspension statute today, §4507.16, can be repealed with the enactment of new Ch. 4510. In light of changes to the innocent owner and wrongful entrustment laws (see Wrongful Entrustment Replaces Third Party Seizures, above), the penalty would remain the same except the vehicle could not be immobilized or criminally forfeited unless it is registered in the name of the person operating it at the time of arrest. The license suspension would be in Class 6.

The suspension for failure to appear or pay a fine (now in §4507.168) would be placed in Class F.

Suspensions for municipal ordinance or Federal Assimilative Crimes Act violations would move from §§4507.1611 and 4507.1610 to §§4510.05 and 4510.06, with technical changes.

The section on impounding plates during OVI suspensions (§4507.164) would become §4510.42, with technical changes in light of amendments to OVI and other laws, discussed above.

§4507.54, governing the fee for reissuing a license would become §4510.52, with technical changes. Similarly, §4507.55, governing reissuance following suspension for OVI, would become §4510.53. It would be amended to incorporate the changes in the ALS statute (§4511.197, discussed above).

The interstate license compact (§§4507.60 to 4507.63) would become §§4510.61 to 4510.64 without amendment. The nonresident violator compact (§§4511.95 and 4511.951) would become §§4501.71 and 4510.72 without amendment.

## **SPEEDING**

### **CHANGING THE OFFENSE LEVEL**

Speeding is a minor misdemeanor. But, a 2<sup>nd</sup> speeding in one year rises to an M-4. In these cases, the accused has a right to an attorney and jury trial. However, under Traffic Rule 13, the accused can waive the right to trial and pay the ticket to a violations bureau. (§4511.21, which would supercede the generic penalties in §4511.99(D)(1).)

To reflect these recent changes in the Traffic Rules, and to eliminate the need to appear in court (with possible public defender and jury costs), a 2<sup>nd</sup> speeding infraction in one year would become an MM, rather than an M-4. A 3<sup>rd</sup> speeding in the year (now an M-3) would be an M-4, but would carry a suspension. A 4<sup>th</sup> violation in a year would remain an M-3.

The current M-4s for driving faster than 35 mph in a municipal business district, over 50 elsewhere in a municipality, and over 35 in a school zone would remain, as would the double fines in construction zones. (Current §4511.99(D)(2)&(3), which would become part of §4511.21(M))

### **LICENSE SUSPENSION**

Currently a judge can impose a suspension for a traffic violation "relating to reckless operation" (§4507.34, which would become §4510.15). It is sometimes used in speeding cases. The Commission frowns on this practice. If the speed poses a risk to public safety, the person should be charged with reckless operation and speeding. Such a charge would put the person on notice of a possible suspension for a conviction of reckless operation.

However, there should be a suspension for chronic speeding. On 3<sup>rd</sup> and subsequent offenses in a year, a Class 6 suspension would be available under this plan.

The law governing speeding on private property (§4511.211), should parallel the changes to the general speeding statute.

### **POINTS FOR SPEEDING**

Presently, points for speeding are based in part on speed and in part on the number of convictions in one year. When a person exceeds the speed limit by 5 mph, the driver gets two points. If the speed exceeds 75 mph, four points

accrue. If it is the driver's 2<sup>nd</sup> speeding ticket in a year, the driver gets one point for each 5 mph over the speed limit. If it is the 3<sup>rd</sup> speeding violation in a year, two points accrue for each 5 mph over the limit.

Not only is this complicated, it often leads to odd amendments to charges to finesse the points requirement. The Commission proposes simplifying the law by tying points solely to the speed over the posted limit.

Under the proposal, the driver would get two points when the speed is 5 mph over a limit of less than 55, two points when speed is 10 mph over a limit of 55 or more, and four points when speed is more than 30 mph over any limit. Other lesser speeding violations would not carry points. (Current §4507.021, which would become §4510.03(G)(9)(a)-(d).)

## **DRIVER'S LICENSE LAW**

As noted earlier, the Commission would move the various suspension sections from Ch. 4507 to new Ch. 4510. The remaining Ch. 4507 sections would deal generally with obtaining and retaining a driver's license or permit. Substantively, these sections would not change, except where noted. (Legislative drafters may wish to reorder the remaining sections.) Here is a summary of those provisions.

No changes: §4507.01, definitions and Registrar's duties; §4507.03, exemptions from licensing; §4507.04, exemption for nonresidents; §4507.05, temporary instruction permit; §4507.07, minor's license; §4507.09, expiration and renewal of licenses; §4507.10, license exam; §4507.11, scope of exam; §4507.12, vision screening; §4507.141, identification cards for hearing-impaired persons; §4507.212, applicant's statement; §4507.22, transmission of application to Registrar; §4507.23, license fees; §4507.24, fees for deputy registrars; §4507.51, application for identification card; and §4507.53, limit on release of digitalized photographs.

Changes to eliminate "forfeit", "revoke", and other confusing terms in favor of proposed §4510.01's "suspend" and "cancel": §4507.012, definitions (repeal); §4507.023, obtaining address of holder of "revoked" license; §4507.06, application for a license; §4507.08, license and permit restrictions; §4507.081, annual license for dormant condition; §4507.14, restrictions on license by Registrar;

§4507.19, illegal, erroneously issued or altered licenses; §4507.20, examination for competency; §4507.21, application and issuance of license; §4507.30, misuse of a license; §4507.50, identification cards for unlicensed operators; and §4507.54, reissuance of license.

Other repeals: §4507.111, default on child support (the class of suspension would be incorporated into §2301.374); §4507.165, school bus suspensions (suspension language would be incorporated into §4511.75); §4507.166, fleeing a police officer suspension (suspension language would be incorporated into §2921.331); and §4507.33, restrictions against lending vehicle to another (duplicates wrongful entrustment under §4511.203).

Penalties should be repealed for two offenses that contain no true prohibition, other than for the Registrar: §4507.08, license and permit restrictions (amendments should be made to incorporate cross-references to the drunken driving changes and new Ch. 4510, and to fix an incorrect cross-reference); and §4507.081, annual license for someone with a dormant restriction.

Ideally, the penalties would be incorporated into the substantive offense for the following violations (§4507.99 could then be repealed): §4507.13, contents of license; §4507.30, misuse of a license; §4507.31, permitting a minor to operate a vehicle; §4507.321, employing a minor to operate a taxicab; §4507.35, display of license; §4507.36, false statements; and §4507.52, identification card form.

§4507.15, court reports of convictions and forfeitures, should incorporate cross-references to Ch. 4510 and OVI law.

Currently, the Registrar can order certain persons to take the driver's exam. This includes those whose competency is in question and those who otherwise seem unfit to drive. The law also requires the Registrar to test those who accrue seven points. Given the other sanctions in the points law (see Points for Violations, above), the Commission recommends deleting the seven points test. Instead, the section should more generically let the Registrar order a person to take the driver's exam any time the Registrar has good cause to believe that a person should not have a license. Today, the person gets five days notice. That is too short. It should be 30 days. (Proposed §4507.20)

## **FINANCIAL RESPONSIBILITY LAW**

In addition to changes discussed in context elsewhere, the Commission proposes refinements to the law requiring drivers to be able (or insured) to cover the costs of accidents.

### **FAILURE TO REPORT AN ACCIDENT**

Before March 31, 1997, a person in an accident had to file a report with the BMV, regardless of whether the person was at fault, insured, or had filed a police report on the accident (§4509.06). Failure to file dictated a suspension (§4509.09). While the statute's intent was to gather information on uninsured motorists, the law was too broad. Many innocent, insured drivers overlooked the report, only to later learn they were DUS during a routine traffic stop or when renewing their license or plates. Discussion of this at Commission meetings publicized the issue.

The General Assembly corrected the problem by amending §4509.06 and repealing §4509.09. Now, the driver *may* file a report if he or she believes that the owner of the other vehicle is uninsured. No further changes are proposed.

### **FR SUSPENSIONS AND LIMITED DRIVING PRIVILEGES**

Currently, a person convicted of driving without financial responsibility (FR) cannot be granted occupational privileges until showing proof of insurance after the 31<sup>st</sup> day of the six month suspension. On a 2<sup>nd</sup> violation, the law requires a one year suspension with no privileges.

The proposal would allow a court to grant limited driving privileges on 1<sup>st</sup> conviction when the offender shows he or she has proof of FR without waiting 31 days. (The suspension would move from §4507.02(B)(1) to §4510.16 and be placed in Class E.) On 2<sup>nd</sup> conviction within five years, the court could grant privileges upon proof of FR, but only after 15 days of the suspension elapsed. The 2<sup>nd</sup> offense suspension would be in Class C. A 3<sup>rd</sup> conviction within five years would carry a Class B suspension with no driving privileges allowed. (Proposed §4509.101(A)) §4509.105, which governs driving privileges today, would be repealed in light of the more generic privileges law (see Limited Driving Privileges During Suspensions, above).

## **OTHER FR CHANGES**

Today, if a person is required to maintain proof of financial responsibility, he or she must do so for five years. This can get expensive, especially when proof of FR is required after a fairly minor suspension. The Commission would keep the five year period for Class 1, 2, and 3 suspensions, but only require a three year period for Class 4, 5, and 6 suspensions. (Proposed §4509.45(B))

## **OTHER RECLASSIFIED FR SUSPENSIONS**

In addition to those already mentioned, these suspensions would be placed into Class F: §4509.17, failure to deposit security if uninsured; §4509.24, breach of agreement to pay claims by parties in an accident; §4509.291, nonresident's failure to deposit security if uninsured; §4509.37, FR judgment debtor suspension and reinstatement; §4509.40, FR suspension until settlement of judgment; and §4509.42, payment of judgment in installments. Also, a reference to "revocation" would be stricken from §4509.81, which covers some of the Registrar's duties in FR suspensions.

## **REPEALED FR SECTIONS**

If feasible, the penalty section (§4509.99) should be repealed and placed in the sections that regulate the conduct (see Simplification in the OVI discussion, above).

The suspension under §4509.31, relating to §4507.16 suspensions and proof of FR, would be repealed. As noted in the discussion of suspensions, above, §4507.16 would be parceled out to various parts of new Ch. 4510.

The draft would repeal §4509.105, covering occupational driving privileges, since it is covered elsewhere. The license suspension would move to §4509.101.

§4509.33, governing suspension of nonresident's operating privilege and registration, would be amended to delete the term "revocation", to delete the reference to repealed §4507.16, and to include a cross-reference to new Ch. 4510. It would be reclassified as a Class F suspension.

## **OTHER CHANGES**

### **ARREST AND BOND LAW**

Various provisions of arrest law pose needless inconveniences to law enforcement officers and defendants. For instance, generally officers can issue a citation, rather than make an arrest, for a minor misdemeanor. However, the law prefers an arrest when someone refuses to sign a minor misdemeanor citation. Yet, drivers often refuse to sign because they do not understand that signing for the citation is not an admission of guilt. The law should allow the ticket to suffice in lieu of arrest even when the driver refuses to sign. (Proposed §2935.26) The available fine and license suspension should discourage persons from failing to appear or pay the ticket.

Similarly, when an unlicensed driver is stopped, the officer must bring the person before the court when a surety should guarantee appearance. This is inconvenient to both the driver and the officer. The proposal would allow the court to establish, by local rule, a reasonable security for these persons. (Proposed §2935.27) Also, the plan would amend this section and §2937.221 (which allows use of a driver's license as bond for certain traffic offenses) to change "forfeiture" to "suspension".

Penalties for failure to appear would be classified as an F-3 when a felony is involved and as an M-1 when a misdemeanor is involved. (The unclassified penalties in current law are similar.) The statute would recognize violations under new Ch. 4510. (Proposed §2937.99).

Separately, no driving privileges would be allowed when a person's license is suspended for failing to heed an officer's order.

### **EXPUNGEMENT**

The sealing and expungement law would be amended to allow a person having a misdemeanor traffic violation under Ch. 4507 or 4510 (or a comparable ordinance) to seek expungement as a "first offender". (Proposed §2953.31) Thus, a prior DUS or "no ops" would not preclude a theft expungement years later. However, a prior OVI would preclude the expungement. The judge controls whether the expungement is actually granted.

This aside, an offender still could not get a prior DUS or OVI expunged. §2953.36, regarding convictions precluding sealing, would be amended to reference new Ch. 4510.

### **BMV FEE**

To help defray BMV's processing costs when offenders fail to appear, forfeit bond, *et cetera*, the General Assembly established a fund (§4510.25) and required courts to collect a \$15 fee. Since there are separation of powers concerns in having courts collect fees for executive branch agencies, the proposal would instead require offenders pay the fee directly to BMV. The same would be true of license reinstatement fees after an OVI implied consent suspension. (Proposed §§2935.27(D), 2937.221, 4510.22(A), & §4511.191 (F)(2)(f))

### **BASIC MOTOR VEHICLE CODE**

There would be a few other amendments to, and several sections moved into, the basic motor vehicle law (Ch. 4501).

§4501.01's definitions would include the revised description of "limited driving privileges" discussed earlier.

§4503.236, the forfeiture for operating an immobilized vehicle, would be repealed in light of the new wrongful entrustment section and since the conduct is covered by DUS.

A few sections would move from another chapter into these general provisions since they have general application throughout Title 45: §4501.31, concerning the reversal or modification of the Registrar's order by appeal (currently §4507.27); §4501.32, governing the Registrar's records and proceedings (currently §4507.25); §4501.33's restrictions against interference of court (currently §4507.28; it would be also amended to include reference to new Ch. 4510); and §4501.34, instructing the prosecutor to assist the Registrar (currently §4507.29; it also would add a cross reference to the new chapter).

## **COMMERCIAL DRIVER'S LICENSES**

There should be a minor amendment to the Commercial Driver's License (CDL) law. The law allows a nonresident to drive a U-Haul type vehicle without a CDL, but literally read, requires an Ohioan to have such a license. The draft would exempt a person from a CDL for the occasional transport of personal property, provided it is not for hire or in furtherance of a commercial enterprise (§4506.02). This would treat Ohioans the same as out-of-State drivers and bring Ohio in line with Federal law.

## **VEHICLE FRAUD STATUTES**

Suspensions would be added for two violations. §§4549.02 and 4549.021, covering failure to stop after an accident on a public highway or after an accident occurring on property other than public highways, would carry Class 4 suspensions.

The penalties now found in §4549.99 would move to these sections, with the suspensions classified:

- §4549.04, illegal sale or possession of master keys;
- §4549.43, illegal sale of device to affect odometer;
- §4549.44, operating with odometer disconnected;
- §4549.45, sale of vehicle with tampered odometer;
- §4549.46, odometer disclosure violations;
- §4549.62, vehicle identification number fraud.

## **DRIVING SCHOOLS**

The Highway Patrol identified several problems with the law governing licenses for driving school instructors. For instance, the current penalty for generic violations of Ch. 4508 is \$100 or a jail term of not more than 30 days. The proposal would classify the penalties for operating a driving school without a license or failure to return a suspended or cancelled license to the Director of Public Safety. Each would be an MM on 1<sup>st</sup> offense and an M-4 on a subsequent offense within two years. (Proposed §§4508.03 & 4508.06)

A person convicted of a felony in the last 10 years, or an M-1 or M-2 that is reasonably related to the job in the last five years, should be disqualified from having this license. Also, the law should make clear that anyone who makes a false statement on the license application may be

guilty of falsification under §2921.13. (Proposed §4508.04)

A provision would be added to address the concerns for vehicle safety at the schools. The Patrol found that driving schools sometimes allow students to operate unsafe vehicles in the schools' parking lots. The new prohibition would limit a driving school from using an unsafe vehicle in any manner. The offense would be an MM on 1<sup>st</sup> offense and an M-4 on subsequent offenses within two years. (Proposed §4508.09)

§4508.99 should be repealed, if feasible, with the penalties classified, as noted, and placed in appropriate sections. If not repealed, the section should be amended to reflect the suggested penalty changes.

# TRAFFIC BILL DRAFT

## VEHICULAR DEATHS AND ASSAULTS

### §2903.04 INVOLUNTARY MANSLAUGHTER

(A) **During a Felony** No person shall cause the death of another or the unlawful termination of another's pregnancy as a proximate result of the offender's committing or attempting to commit a felony.

(B) **During a Misdemeanor** No person shall cause the death of another or the unlawful termination of another's pregnancy as a proximate result of the offender's committing or attempting to commit a misdemeanor ~~of the first, second, third, or fourth degree or~~ a minor misdemeanor, OR A REGULATORY OFFENSE, EXCEPT A MINOR MISDEMEANOR VIOLATION OF TITLE XLV OF THE REVISED CODE OR A VIOLATION OF A MUNICIPAL ORDINANCE THAT IS SUBSTANTIALLY EQUIVALENT TO A MINOR MISDEMEANOR VIOLATION OF THAT TITLE, REGARDLESS OF THE PENALTY SET BY THE ORDINANCE.

(C) **Basic Penalties** Whoever violates this section is guilty of involuntary manslaughter. Violation of division (A) of this section is a felony of the first degree. Violation of division (B) of this section is a felony of the third degree.

(D) **Mandatory Penalties** ~~(1) In addition to any penalty imposed upon the offender under division (C) of this section and sections 2929.11 to 2929.18 of the Revised Code, if~~ IF the offender is convicted of or pleads guilty to a violation of ~~division (A) or (B) of this section and if the felony or misdemeanor that the offender committed or attempted to commit, that proximately resulted in the death of the other person, and that is the basis of the offender's violation of division (A) or (B) of this section included as an element of that felony or misdemeanor offense, the offender's operation or participation in the operation of a motor vehicle, motorcycle, snowmobile, watercraft, or aircraft while he was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse~~ WAS A VIOLATION OF SECTION 4511.19 OF THE REVISED CODE OR A SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE, both of the following apply:

~~(a)(1) The COURT SHALL IMPOSE A LIFETIME SUSPENSION OF the offender's driver's or commercial driver's license or permit or nonresident operating privilege shall be permanently revoked pursuant to 4507.46 4510.02 of the Revised Code;~~

~~(b)(2) The offender is not eligible for shock probation, probation, or shock parole pursuant to section 2947.061, 2951.02, or 2967.31 of the Revised Code if any of the following apply relative to the offender~~ COURT SHALL IMPOSE A MANDATORY PRISON TERM FOR A VIOLATION OF DIVISION (A) OR (B) OF THIS SECTION, FROM THE RANGE AUTHORIZED FOR THE LEVEL OF THE OFFENSE UNDER SECTION 2929.14 OF THE REVISED CODE:

~~(i) He previously has been convicted of or pleaded guilty to a violation of division (A) or (B) of this section in which the felony or misdemeanor that he committed or attempted to commit, that proximately resulted in the death of the other person, and that is the basis of the offender's violation of division (A) or (B) of this section included, as an element of that felony or misdemeanor offense, his operation or participation in the operation of a motor vehicle, motorcycle, snowmobile, watercraft, or aircraft while he was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;~~

~~(ii) He previously has been convicted of or pleaded guilty to a violation of a municipal~~

~~ordinance that is substantially similar to division (A) or (B) of this section, and felony or misdemeanor that he committed or attempted to commit, that proximately resulted in the death of the other person, and that is the basis of the offender's violation of division (A) or (B) of this section included, as an element of that felony or misdemeanor offense, his operation or participation in the operation of a motor vehicle, motorcycle, snowmobile, watercraft, or aircraft while he was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;~~

~~(iii) He previously has been convicted of or pleaded guilty to a violation of section 1547.11, 2903.06, 2903.07, 2903.08, 4511.19, or 4511.192 of the Revised Code, division (B) or (D) of section 4507.02 of the Revised Code, section 4507.38 or 4507.39 of the Revised Code as those sections existed prior to September 24, 1986, a municipal ordinance that is substantially similar to section 2903.06, 2903.07, 2903.08, 4511.19 04 4511.192 of the Revised Code, or a municipal ordinance that is substantially similar to section 4507.38 or 4507.39 of the Revised Code as those sections existed prior to September 24, 1986;~~

~~(iv) He has accumulated twelve points pursuant to section 4507.021 of the Revised Code within one year of the offense;~~

~~(v) He was driving under suspension at the time he committed the offense.~~

~~(2) In determining, for purposes of division (D)(1) of this section, whether an offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse at the time of the commission of his violation of division (A) or (B) of this section, the trier of fact may consider as competent evidence the concentration of alcohol in the offender's blood, breath, or urine as shown by a chemical test taken pursuant to section 1547.111 or 4511.191 of the Revised Code. The offender shall be presumed to have been under the influence of alcohol, if there was, at the time the bodily substance was withdrawn for the chemical test, a concentration of ten hundredths of one per cent or more by weight of alcohol in the offender's blood, ten hundredths of one gram or more by weight of alcohol per two hundred ten liters of his breath, or fourteen hundredths of one gram or more by weight of alcohol per one hundred milliliters of his urine.~~

## **§2903.06 AGGRAVATED VEHICULAR HOMICIDE, VEHICULAR HOMICIDE, AND VEHICULAR MANSLAUGHTER**

(A) **The Offenses** No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall ~~recklessly~~ cause the death of another or the unlawful termination of another's pregnancy IN ANY OF THE FOLLOWING WAYS:

(1) AS THE PROXIMATE RESULT OF COMMITTING A VIOLATION OF DIVISION (A) OF SECTION 4511.19 [OVI] OF THE REVISED CODE OR OF A SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE;

(2) RECKLESSLY;

(3) NEGLIGENTLY;

(4) AS THE PROXIMATE RESULT OF COMMITTING A MINOR MISDEMEANOR UNDER TITLE XLV OF THE REVISED CODE, OR OF A SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE.

(B) **Penalties**

(1) **Aggravated Vehicular Homicide (When OVI)** Whoever violates DIVISION (A)(1) OF this section is guilty of aggravated vehicular homicide, a felony of the ~~third~~ SECOND degree. ~~IF THE OFFENSE IS A FELONY OF THE FIRST DEGREE IF the~~ offender previously has been ~~convicted of or pleaded~~ FOUND guilty ~~to OF;~~ an offense under this section; ANY TRAFFIC-RELATED HOMICIDE, MANSLAUGHTER, OR ASSAULT; ~~section 2903.07, or 2903.08 of the Revised Code, or section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section;~~ THREE PRIOR VIOLATIONS OF SECTION 4511.19 OF

THE REVISED CODE WITHIN THE PREVIOUS SIX YEARS; OR A SECOND OR SUBSEQUENT FELONY VIOLATION OF THAT SECTION; OR IF THE OFFENDER WAS DRIVING UNDER SUSPENSION UNDER CHAPTER 4510. OF THE REVISED CODE , ~~aggravated vehicular homicide is a felony of the second degree.~~

~~If the jury or judge as trier of fact finds that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, at the time of the commission of the offense, then, the offender's driver's or commercial driver's license or permit or nonresident operating privilege shall be permanently revoked pursuant to section 4507.16 of the Revised Code.~~

IN ADDITION, THE COURT SHALL IMPOSE A LIFETIME SUSPENSION UNDER DIVISION (A)(1) OF SECTION 4510.02 OF THE REVISED CODE.

~~When the trier of fact determines whether the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, the concentration of alcohol in the offender's blood, breath, or urine as shown by a chemical test taken pursuant to section 1547.111 or 4511.191 of the Revised Code may be considered as competent evidence, and the offender shall be presumed to have been under the influence of alcohol if there was at the time the bodily substance was withdrawn for the chemical test a concentration of ten hundredths of one percent or more by weight of alcohol in the offender's blood, ten hundredths of one gram or more by weight of alcohol per two hundred ten liters of his breath, or fourteen hundredths of one gram or more by weight of alcohol per one hundred milliliters of his urine.~~

(2) **Aggravated Vehicular Homicide (When Not OVI)** WHOEVER VIOLATES DIVISION (A)(2) OF THIS SECTION IS GUILTY OF AGGRAVATED VEHICULAR HOMICIDE, A FELONY OF THE THIRD DEGREE. THE OFFENSE IS A FELONY OF THE SECOND DEGREE IF THE OFFENDER PREVIOUSLY HAS BEEN FOUND GUILTY OF AN OFFENSE UNDER THIS SECTION OR OF ANY TRAFFIC-RELATED HOMICIDE, MANSLAUGHTER, OR ASSAULT, OR IF THE OFFENDER WAS DRIVING UNDER SUSPENSION UNDER CHAPTER 4510. OF THE REVISED CODE.

IN ADDITION, THE COURT SHALL IMPOSE A CLASS ONE SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE.

(3) **Vehicular Homicide** WHOEVER VIOLATES DIVISION (A)(3) OF THIS SECTION IS GUILTY OF VEHICULAR HOMICIDE, A MISDEMEANOR OF THE FIRST DEGREE. VEHICULAR HOMICIDE IS A FELONY OF THE FOURTH DEGREE IF THE OFFENDER PREVIOUSLY HAS BEEN FOUND GUILTY OF AN OFFENSE UNDER THIS SECTION OR OF ANY TRAFFIC-RELATED HOMICIDE, MANSLAUGHTER, OR ASSAULT, OR IF THE OFFENDER WAS DRIVING UNDER SUSPENSION UNDER CHAPTER 4510. OF THE REVISED CODE.

IN ADDITION, THE COURT SHALL IMPOSE A CLASS THREE SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. IF THE OFFENDER PREVIOUSLY HAS BEEN FOUND GUILTY OF AN OFFENSE UNDER THIS SECTION, OR OF ANY TRAFFIC RELATED HOMICIDE, MANSLAUGHTER, OR ASSAULT, THE COURT SHALL IMPOSE A CLASS TWO SUSPENSION UNDER THAT SECTION.

(4) **Vehicular Manslaughter** WHOEVER VIOLATES DIVISION (A)(4) OF THIS SECTION IS GUILTY OF VEHICULAR MANSLAUGHTER, A MISDEMEANOR OF THE SECOND DEGREE. VEHICULAR MANSLAUGHTER IS A MISDEMEANOR OF THE FIRST DEGREE IF THE OFFENDER PREVIOUSLY HAS BEEN FOUND GUILTY OF AN OFFENSE UNDER THIS SECTION OR OF ANY TRAFFIC-RELATED HOMICIDE, MANSLAUGHTER, OR ASSAULT, OR IF THE OFFENDER WAS DRIVING UNDER SUSPENSION UNDER CHAPTER 4510. OF THE REVISED CODE.

IN ADDITION, THE COURT SHALL IMPOSE A CLASS FIVE SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. IF THE OFFENDER PREVIOUSLY HAS BEEN FOUND GUILTY OF AN OFFENSE UNDER THIS SECTION, OR OF ANY TRAFFIC-RELATED HOMICIDE, MANSLAUGHTER, OR ASSAULT, THE COURT SHALL IMPOSE A CLASS THREE SUSPENSION UNDER THAT SECTION.

(C) **Mandatory Prison Term** ~~If the~~ THE COURT SHALL IMPOSE A MANDATORY PRISON TERM ON AN OFFENDER WHO VIOLATES DIVISION (A)(1) OF THIS SECTION. THE COURT SHALL IMPOSE A MANDATORY PRISON TERM ON AN OFFENDER WHO VIOLATES DIVISION (A)(2) OR (3) OF THIS SECTION IN EITHER OF THE FOLLOWING CIRCUMSTANCES:

(1) THE offender has previously been ~~convicted of or pleaded~~ FOUND guilty ~~to~~ OF a violation of this section, section 2903.04 ~~2903.08~~ of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, section 1547.11, 2903.07, 2903.08, 4511.19, or 4511.192 of the Revised Code, division (B) or (D) of section 4507.02 of the Revised Code, section 4507.38 or 4507.39 of the Revised Code as those sections existed prior to September 24, 1986, OR a municipal ordinance that is substantially similar to this OR THAT section 2903.07, 2903.08, 4511.19, or 4511.192 of the Revised Code, a municipal ordinance that is substantially similar to section 4507.38 or 4507.39 of the Revised Code as those sections existed prior to September 24, 1986, or a municipal ordinance that is substantially similar to section 2903.04 of the Revised Code in a case in which the offender would have been subject to the sanctions described in division (D) of that section had he been convicted of a violation of that section, if the offender has accumulated twelve points pursuant to section 4507.021 of the Revised Code within one year of the offense, or if in;

(2) AT the ~~commission~~ TIME of the offense, the offender was driving under suspension or operating a motor vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, he shall not be eligible for shock probation, probation, or shock parole pursuant to section 2947.061, 2951.02, or 2967.31 of the Revised Code.

(D) AS USED IN THIS SECTION, WHEN A PENALTY IS ENHANCED BECAUSE OF A PRIOR OR CURRENT VIOLATION OF A SPECIFIED OFFENSE, THE SPECIFIED OFFENSE INCLUDES ANY VIOLATION OF ANY SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE, FORMER LAW, OR LAW OF ANOTHER JURISDICTION.

## §2903.07 VEHICULAR HOMICIDE

[Repealed; Merged into new 2903.06.]

## §2903.08 AGGRAVATED VEHICULAR ASSAULT; VEHICULAR ASSAULT

(A) **The Offenses** No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall ~~recklessly~~ cause serious physical harm to another person or another's unborn IN EITHER OF THE FOLLOWING WAYS:

(1) AS A PROXIMATE RESULT OF THE OFFENDER'S COMMITTING A VIOLATION OF DIVISION (A) OF SECTION 4511.19 [OVI] OF THE REVISED CODE OR OF A SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE;

(2) RECKLESSLY.

(B) **Penalties**

(1) **Aggravated Vehicular Assault (When OVI)** Whoever violates DIVISION (A)(1) OF this section is guilty of aggravated vehicular assault, a felony of the ~~fourth~~ THIRD degree. If THE OFFENSE IS A FELONY OF THE SECOND DEGREE IF the offender previously has been ~~convicted of or pleaded~~ FOUND guilty ~~to~~ OF; an offense under this section; ANY TRAFFIC-RELATED HOMICIDE, MANSLAUGHTER, OR ASSAULT; section 2903.07, or 2903.08 of the Revised Code, or section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, THREE PRIOR VIOLATIONS OF SECTION 4511.19 OF THE REVISED CODE WITHIN THE PREVIOUS SIX YEARS; OR A SECOND OR

SUBSEQUENT FELONY VIOLATION OF THAT SECTION; OR IF THE OFFENDER WAS DRIVING UNDER SUSPENSION UNDER CHAPTER 4510. OF THE REVISED CODE, aggravated vehicular homicide is a felony of the third degree.

~~If the jury or judge as trier of fact finds that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, at the time of the commission of the offense, then the offender's driver's or commercial driver's license or permit or nonresident operating privilege shall be permanently revoked pursuant to section 4507.16 of the Revised Code.~~

~~When the trier of fact determines whether the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, the concentration of alcohol in the offender's blood, breath, or urine as shown by a chemical test taken pursuant to section 1547.111 or 4511.191 of the Revised Code may be considered as competent evidence, and the offender shall be presumed to have been under the influence of alcohol if there was at the time the bodily substance was withdrawn for the chemical test a concentration of ten hundredths of one percent or more by weight of alcohol in the offender's blood, ten hundredths of one gram or more by weight of alcohol per two hundred ten liters of his breath, or fourteen hundredths of one gram or more by weight of alcohol per one hundred milliliters of his urine.~~

IN ADDITION, THE COURT SHALL IMPOSE A CLASS TWO SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. IF THE OFFENDER PREVIOUSLY HAS BEEN FOUND GUILTY OF AN OFFENSE UNDER THIS SECTION, OR OF ANY TRAFFIC-RELATED HOMICIDE, MANSLAUGHTER, OR ASSAULT, THE COURT SHALL IMPOSE A CLASS ONE SUSPENSION UNDER THAT SECTION.

(2) **Vehicular Assault When Not OVI** WHOEVER VIOLATES DIVISION (A)(2) OF THIS SECTION IS GUILTY OF VEHICULAR ASSAULT, A FELONY OF THE FOURTH DEGREE. THE OFFENSE IS A FELONY OF THE THIRD DEGREE IF THE OFFENDER PREVIOUSLY HAS BEEN FOUND GUILTY OF AN OFFENSE UNDER THIS SECTION OR OF ANY TRAFFIC-RELATED HOMICIDE, MANSLAUGHTER, OR ASSAULT, OR IF THE OFFENDER WAS DRIVING UNDER SUSPENSION UNDER CHAPTER 4510. OF THE REVISED CODE.

IN ADDITION, THE COURT SHALL IMPOSE A CLASS THREE SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. IF THE OFFENDER PREVIOUSLY HAS BEEN FOUND GUILTY OF AN OFFENSE UNDER THIS SECTION, OR OF ANY TRAFFIC-RELATED HOMICIDE, MANSLAUGHTER, OR ASSAULT, THE COURT SHALL IMPOSE A CLASS TWO SUSPENSION UNDER THAT SECTION.

(C) **Mandatory Prison Term** ~~If the~~ THE COURT SHALL IMPOSE A MANDATORY PRISON TERM ON AN OFFENDER WHO VIOLATES DIVISION (A)(1) OF THIS SECTION. THE COURT SHALL IMPOSE A MANDATORY PRISON TERM ON AN OFFENDER WHO VIOLATES DIVISION (A)(2) OF THIS SECTION IN EITHER OF THE FOLLOWING CIRCUMSTANCES:

(1) THE offender previously has been ~~convicted of or pleaded~~ FOUND guilty OF ~~to~~ a violation of this section, section 2903.04 ~~2903.06~~ of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, section 1547.11, 2903.06, 2903.07, 4511.19, or 4511.192 of the Revised Code, division (B) or (D) of section 4507.02 of the Revised Code, section 4507.38 or 4507.39 of the Revised Code as those sections existed prior to September 24, 1986, OR a municipal ordinance that is substantially similar to this OR THAT section, section 2903.07, 4511.19, or 4511.192 of the Revised Code, a municipal ordinance that is substantially similar to section 4507.38 or 4507.39 of the Revised Code as those sections existed prior to September 24, 1986, or a municipal ordinance that is substantially similar to section 2903.04 of the Revised Code in a case in which the offender would have been subject to the sanctions described in division (D) of that section had he been convicted of a violation of that section, if the offender has accumulated twelve points pursuant to section 4507.021 of the Revised Code within one year of the offense, or if in;

(2) AT the ~~commission~~ TIME of the offense, the offender was driving under suspension or operating a motor vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, he shall not be eligible for shock probation, probation, or shock parole pursuant to section 2947.061, 2951.02, or 2967.31 of the Revised Code.

(D) AS USED IN THIS SECTION, WHEN A PENALTY IS ENHANCED BECAUSE OF A PRIOR OR CURRENT VIOLATION OF A SPECIFIED OFFENSE, THE SPECIFIED OFFENSE INCLUDES ANY VIOLATION OF ANY SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE, FORMER LAW, OR LAW OF ANOTHER JURISDICTION.

### §2929.13 MANDATORY PRISON TERMS

(F)

\* \* \*

(3) A felony violation of section 2903.06 or ~~2903.07~~ 2903.08 of the Revised Code, WHEN A MANDATORY PRISON TERM IS REQUIRED BY THE SECTION.

## DRUG AND ENDANGERING CHILDREN SUSPENSIONS

### §2919.22 ENDANGERING CHILDREN BY OVI

[Divisions (A)&(B), setting out the basic crime, would not change.]

(C) **Offense**

(1) No person shall operate a vehicle, streetcar, or trackless trolley within this state ~~and~~ in violation of division (A) of section 4511.19 of the Revised Code when one or more children under eighteen years of age are in the vehicle, streetcar, or trackless trolley. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of this division and a violation of division (A) of section 4511.19 of the Revised Code that constitutes the basis of the charge of the violation of this division. ~~For purposes of section 4511.191 of the Revised Code and all related provisions of law, a person arrested for a violation of this division shall be considered to be under arrest for operating a motor vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine.~~

[Divisions (C)(2), (D), and (E)(1) - (5)(b) would remain the same.]

(E)(5) **Penalties**

(c) If the violation results in serious physical harm to the child involved and if the offender previously has been convicted of a violation of division (C) of this section, OR section 2903.06, ~~2903.07~~, or 2903.08 of the Revised Code, ~~or section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section~~, endangering children in violation of division (C) of this section is a felony of the fourth degree.

(d) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to division (E)(5)(a), (b), or (c) of this section or pursuant to any other provision of law, the court also may impose upon the offender one or both of the following sanctions:

(i) ~~It may require the offender, as part of this sentence and in the manner described in division (F) of this section, to perform not more than two hundred hours of supervised community service work under~~

~~the authority of any agency, political subdivision, or charitable organization of the type described in division (F)(1) of section 2951.02 of the Revised Code, provided that the court shall not require the offender to perform supervised community service work under this division unless the offender agrees to perform the supervised community service work.~~

~~(ii) It may suspend the driver's or commercial driver's license or permit or nonresident driving privilege of the offender for up to ninety days IMPOSE A CLASS SIX SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE, in addition to any suspension or revocation of the offender's driver's or commercial driver's license or permit or nonresident operating privilege under Chapter 4506., 4507., 4509., 4510., or 4511. of the Revised Code or under any other provision of law.~~

(e) In addition . . . , if as part of the same trial or proceeding the offender also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, the offender also shall be sentenced, in accordance with section ~~4511.99~~ 4511.19 of the Revised Code, ~~for that violation of division (A) of section 4511.19 of the Revised Code and also shall be subject to all other sanctions that are required or authorized by any provision of law for that violation of division (A) of section 4511.19 of the Revised Code.~~

[Division (F) would remain the same.]

(G) **Suspension Conditions** If a court suspends an offender's driver's or commercial driver's license or permit or nonresident operating privilege under division (E)(5)(d)(iii) of this section, the period of the suspensions shall be consecutive to, and commence after, the period of suspension ~~or revocation~~ of the offender's driver's or commercial driver's license or permit or nonresident operating privilege that is imposed under Chapter 4506., 4507., 4509., 4510., or 4511. of the Revised Code . . . that is the basis of the suspension under division (E)(5)(d)(iii) of this section . . .

If an offender's license, permit, or privilege has been suspended under division (E)(5)(d)(iii) of this section and the offender, within the preceding ~~seven~~ SIX years, has been ~~convicted of or pleaded~~ FOUND guilty ~~to~~ OF three or more violations of division (C) of this section, A FELONY VIOLATION OF division (A) ~~or (B)~~ of section 4511.19 of the Revised Code, OR a SUBSTANTIALLY EQUIVALENT municipal ordinance ~~relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, the offender is not entitled to request, and the court shall not grant to the offender, occupational LIMITED driving privileges under this division. Any other offender whose license, permit, or nonresident operating privilege has been suspended under division (E)(5)(d)(ii) of this section may file with the sentencing court a petition alleging that the suspension would seriously affect the offender's ability to continue employment. . . . [repeal the rest of the division as unnecessary given the new definition of limited driving privileges].~~

[Divisions (H)-(J) would remain the same.]

## §2925.02 CORRUPTING ANOTHER WITH DRUGS

(D)

\* \* \*

(2) **Penalties** The court ~~either shall revoke or, if it does not revoke, shall suspend for not less than six months or more than five years, the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to a violation of this section that is a felony of the first degree and shall suspend for not less than six months nor more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any other violation of this section~~ IMPOSE A CLASS FOUR SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. If an offender's driver's or commercial driver's license or permit is ~~revoked~~ SUSPENDED pursuant to this division, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed or from the day on which the offender finally was released from a prison term under the sentence, whichever is later, may file a motion with the sentencing court requesting termination of the ~~revocation~~ SUSPENSION. Upon the filing of the motion and the court's finding of good cause for the termination, the court may terminate the ~~revocation~~ SUSPENSION.

\* \* \*

(G)

(3) **Professional License** If the offender is a professionally licensed person ~~or person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules,~~ in addition to any other sanction imposed for a violation of this section, the court ~~forthwith~~ IMMEDIATELY shall comply with section 2925.38 of the Revised Code.

### §2925.03 DRUG TRAFFICKING

(D)

\* \* \*

(2) **Suspension** The court shall ~~revoke or~~ suspend the driver's or commercial driver's license or permit of the offender in accordance with division (G) of this section.

(3) **Professional License** If the offender is a professionally licensed person ~~or person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules,~~ in addition to any other sanction imposed for a violation of this section, the court ~~forthwith~~ IMMEDIATELY shall comply with section 2925.38 of the Revised Code.

\* \* \*

(G) **Suspension** When required under division (D)(2) of this section, the court shall ~~either revoke or, if it does not revoke, shall suspend for not less than six months or more than five years, the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to a violation of this section that is a felony of the first degree and shall suspend for not less than six months nor more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any other violation of this section~~ IMPOSE A CLASS FOUR SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. If an offender's driver's or commercial driver's license or permit is ~~revoked~~ SUSPENDED pursuant to this division, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed or from the day on which the offender finally was released from a prison term under the sentence, whichever is later, may file a motion with the sentencing court requesting termination of the ~~revocation~~ SUSPENSION. Upon the filing of the motion and the court's finding of good cause for the termination, the court may terminate the ~~revocation~~ SUSPENSION.

### §2925.04 ILLEGAL MANUFACTURE OR CULTIVATION OF DRUGS

(D)

\* \* \*

(2) **Suspension** The court shall ~~revoke or suspend the offender's driver's license or commercial driver's license or permit in accordance with division (G) of~~

IMPOSE A CLASS FOUR SUSPENSION UNDER DIVISION (A) OF section ~~2925.03~~ 4510.02 of the Revised Code. If the offender's driver's or commercial driver's license or permit is ~~revoked~~ SUSPENDED in accordance with that division, the offender may request termination of, and the court may terminate the ~~revocation~~ SUSPENSION in accordance with that division.

(3) **Professional License** If the offender is a professionally licensed person ~~or person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules~~, in addition to any other sanction imposed for a violation of this section, the court ~~forthwith~~ IMMEDIATELY shall comply with section 2925.38 of the Revised Code.

## **§2925.05 PROVIDING MONEY FOR DRUGS**

[Amend divisions (D)(2) & (3) as shown in §2925.04(D)(2) & (3), above.]

## **§2925.06 STEROIDS VIOLATIONS**

[Amend divisions (D)(1) & (2) as shown in §2925.04(D)(2) & (3), above.]

## **§2925.11 DRUG POSSESSION**

(E)

\* \* \*

(2) **Suspension** In addition to any other penalty imposed for a violation of this section, the court shall ~~suspend for not less than six months nor more than five years the driver's or commercial driver's license of any person who is convicted of or pleaded guilty to a violation of this section~~ IMPOSE A CLASS FOUR SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE.

(3) **Professional License** [Amend as shown in §2925.04(D)(3), above.]

## **§2925.13 PERMITTING DRUG ABUSE**

(D)

\* \* \*

(1) **Suspension** The court shall ~~suspend for not less than six months or more than five years the driver's or commercial driver's license or permit of the offender~~ IMPOSE A CLASS FOUR SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE.

(2) **Professional License** [Amend as shown in §2925.04(D)(3), above.]

## **§2925.14 DRUG PARAPHERNALIA**

\* \* \*

[Amend 1<sup>st</sup> sentence of division (G) as shown in §2925.04(D)(2), above. Amend 2<sup>nd</sup> sentence as shown in §2925.04(D)(3), above.]

## **§2925.22 DECEPTION TO OBTAIN A DANGEROUS DRUG**

[Amend divisions (C)(1) & (2) as shown in §2925.04(D)(3) & §2925.04(D)(3), above, respectively.]

## **§2925.23 ILLEGAL PROCESSING OF DRUG DOCUMENTS**

[Amend divisions (G)(1) & (2) as shown in §2925.13(D)(1) & §2925.04(D)(3), above, respectively.]

**§2925.31 ABUSING HARMFUL INTOXICANTS**

[Amend 1<sup>st</sup> sentence of division (C) as shown in §2925.04(D)(2), above. Amend 2<sup>nd</sup> sentence as shown in §2925.04(D)(3), above.]

**§2925.32 TRAFFICKING IN HARMFUL INTOXICANTS**

\* \* \*

[Amend 1<sup>st</sup> sentence of division (F) as shown in §2925.04(D)(2), above. Amend 2<sup>nd</sup> sentence as shown in §2925.04(D)(3), above.]

**§2925.36 ILLEGAL DISPENSING OF DRUG SAMPLES**

[Amend divisions (D)(1) & (2) as shown in §2925.04(D)(3) & §2925.04(D)(3), above, respectively.]

**§2925.37 COUNTERFEIT CONTROLLED SUBSTANCES**

[Amend divisions (L)(1) & (2) as shown in §2925.04(D)(3) & §2925.04(D)(3), above, respectively.]

**ARREST AND BOND RELATED LAW**

**§2921.331 FAILURE TO COMPLY WITH POLICE OFFICER’S ORDER**

[Divisions (A) through (C), setting forth the offense, would not change. But, the following language would move from §4507.166 (which would be repealed). It is shown in lower case, with proposed amendments in upper case.]

\* \* \*

(D) Suspension [Was §4507.166] The trial judge of any court of record shall, in addition to or independent of all other penalties provided by law, ~~suspend the driver’s or commercial driver’s license of~~ IMPOSE A CLASS ONE SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE ON any person ~~who is convicted of or pleads~~ FOUND guilty ~~to~~ OF causing the death of another, as the proximate result of operating a motor vehicle[;] while eluding or fleeing a police officer.

\* \* \*

~~Such suspension shall be for a period of ten years and the~~ LIMITED DRIVING PRIVILEGES SHALL NOT BE GRANTED AND THE registrar shall not issue to the offender another driver’s or commercial driver’s license during the effective date of ~~such revocation~~ THE SUSPENSION. ON SUBSEQUENT VIOLATIONS OF THIS SECTION, THE COURT SHALL IMPOSE THE MAXIMUM SUSPENSION AUTHORIZED BY SECTION 4510.02 OF THE REVISED CODE.

(E) [Current (D)] As used in this section, “police officer” has the same meaning as in section 4511.01 of the Revised Code.

**§2935.26 CITATION IN LIEU OF ARREST**

(A) Notwithstanding any other provision of the Revised Code, when a law enforcement officer is otherwise authorized to arrest a person for the commission of a minor misdemeanor,

the officer shall not arrest the person, but shall issue a citation, unless one of the following applies:

- (1) The ~~offender~~ PERSON requires medical care or is unable to provide for his THE PERSON'S own safety.
- (2) The ~~offender~~ PERSON cannot or will not offer satisfactory evidence of his THE PERSON'S identity.
- (3) ~~The offender refuses to sign the citation.~~
- (4) The ~~offender~~ PERSON has previously been issued a citation . . . [no further changes].

## **§2935.27 ALTERNATIVE SECURITY FOR APPEARANCE**

[Division (A)(1) would not change]

- (2) If the person is an Ohio resident who does not have a current valid Ohio driver's or commercial driver's license or if the person is a resident of a state that is not a member of the nonresident violator compact, of which this state is a member pursuant to section ~~4511.95~~ 4510.71 of the Revised Code, the ~~officer shall bring the person before the court with which the citation is required to be filed for the setting of a reasonable security by the court~~ COURT MAY, BY LOCAL RULE, PRESCRIBE A PROCEDURE FOR THE SETTING OF REASONABLE SECURITY pursuant to division (F) of this section.

[Divisions (B) & (C) would not change]

(D) If a person who has a current valid Ohio driver's or commercial driver's license and who was issued a citation fails to appear . . . , the court shall declare the ~~forfeiture~~ SUSPENSION of the person's license. Thirty days after the declaration of ~~forfeiture~~, the court shall enter information relative to the ~~forfeiture~~ SUSPENSION on a form approved and furnished by the registrar . . . . No valid driver's or commercial driver's license shall be granted to the person until the court having jurisdiction of the offense that led to the suspension orders that the ~~forfeiture~~ SUSPENSION be terminated. . . . The court shall inform the registrar of the termination of the ~~forfeiture~~ SUSPENSION by entering information relative to the termination on a form approved and furnished by the registrar and sending the form to the registrar AS PROVIDED IN THIS DIVISION. ~~The court also shall charge and collect from the person~~ SHALL PAY TO THE BUREAU OF MOTOR VEHICLES a fifteen dollar processing fee, to cover the costs of the bureau of motor vehicles in administering this section. ~~The clerk of the court shall transmit monthly all such processing fees to the registrar, for deposit into the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.~~

In addition, upon receipt of the copy of the declaration of ~~forfeiture~~ from the court, neither the registrar nor any deputy registrar shall accept any application for the registration of any motor vehicle owned or leased by the person named in the declaration of ~~forfeiture~~ until the court having jurisdiction of the offense that led to the ~~forfeiture~~ DECLARATION orders that the ~~forfeiture~~ SUSPENSION be terminated. Upon receipt by the registrar of an order terminating the ~~forfeiture~~ SUSPENSION, the registrar shall . . . .

The registrar is not required to give effect to any declaration of ~~forfeiture~~ SUSPENSION or order terminating a ~~forfeiture~~ SUSPENSION unless the order is transmitted to the registrar by means of an electronic transfer system. . . [no further changes].

## **§2937.221 USING DRIVER'S LICENSE AS BOND**

[Division (A)'s 1<sup>st</sup> 5 paragraphs would not change. They allow a person to use a driver's license as bond in certain traffic cases.]

If the person arrested fails to appear in court at the date and time set by the court or fails to satisfy the judgment of the court, including, but not limited to, compliance with all court orders

within the time allowed by the court, the court may declare the ~~forfeiture~~ SUSPENSION of the person's license. Thirty days after the declaration of ~~forfeiture~~, the court shall forward the person's license to the registrar. The court also shall enter information relative to the ~~forfeiture~~ SUSPENSION on a form approved and furnished by the registrar . . . No valid driver's or commercial driver's license shall be granted to the person until the court having jurisdiction of the offense that led to the suspension orders that the ~~forfeiture~~ SUSPENSION be terminated. The court shall inform the registrar of the termination of the ~~forfeiture~~ SUSPENSION by entering information relative to the termination on a form approved and furnished by the registrar and sending the form to the registrar. ~~The court also shall charge and collect from the person SHALL PAY TO THE BUREAU OF MOTOR VEHICLES a fifteen dollar processing fee, to cover the costs of the bureau of motor vehicles in administering this section. The clerk of the court shall transmit monthly all such processing fees to the registrar, for deposit into the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.~~

In addition, upon receipt from the court of the copy of the declaration of ~~forfeiture~~, neither the registrar nor any deputy registrar shall accept any application for the registration of any motor vehicle owned or leased by the person named in the declaration of ~~forfeiture~~ until the court having jurisdiction of the offense that led to the suspension issues an order terminating the ~~forfeiture~~ SUSPENSION. However, for a motor vehicle leased in the name of a person named in a declaration of ~~forfeiture~~, the registrar shall . . . Upon receipt by the registrar of an order terminating the ~~forfeiture~~ SUSPENSION, the registrar . . . [no further changes].

[Divisions (B) & (C) would not change]

## **§2937.99 BOND LAW PENALTIES**

Whoever fails to appear as required, after having been released pursuant to section 2937.29 of the Revised Code, shall be sentenced as follows:

(A) If the release was in connection with a ~~charge of the commission of a felony~~ CHARGE or pending appeal after conviction of a felony, ~~he shall be fined not more than five thousand dollars or imprisoned in a state correctional institution for not less than one nor more than five years, or both~~ FAILURE TO APPEAR IS A FELONY OF THE THIRD DEGREE.

(B) If the release was in connection with a ~~charge of the commission of a misdemeanor~~ CHARGE or for appearance as a witness, ~~he shall be fined not more than one thousand dollars or imprisoned not more than one year, or both~~ FAILURE TO APPEAR IS A MISDEMEANOR OF THE FIRST DEGREE.

This section does not apply to misdemeanors and related ordinance offenses arising under Chapters 4501., 4503., 4505., 4507., 4509., 4510., 4511., 4513., 4517., 4549., and 5577 of the Revised Code, except . . . [no further changes].

## **EXPUNGEMENT LAW**

### **§2953.31 EXPUNGEMENT DEFINITIONS**

As used in sections 2953.31 to 2953.36 of the Revised Code:

(A) "First offender" means anyone who has been convicted of an offense in this state or any other jurisdiction, and who previously or subsequently has not been convicted of the same or a different offense in this state or any other jurisdiction. When two or more convictions result from or are connected with the same act, or result from offenses committed at the same time, they shall be counted as one conviction.

For purposes of, and except as otherwise provided in, this division, a conviction for a minor misdemeanor, ~~a conviction~~ for a violation of any section in Chapter ~~4507., 4510., 4511., 4513., or 4549.~~ of the Revised Code, or ~~a conviction~~ for a violation of a municipal ordinance that is substantially similar to any section in those chapters, is not a previous or subsequent conviction. A HOWEVER, A conviction for a violation of section 4511.19, ~~4511.192, 4511.251, 4549.02, 4549.021, 4549.03, 4549.042, or 4549.07, or sections 4549.41 to 4549.46~~ of the Revised Code, ~~or a conviction~~ for a violation of a SUBSTANTIALLY EQUIVALENT municipal ordinance ~~that is substantially similar to any of these sections,~~ OR FOR A FELONY VIOLATION OF TITLE XLV shall be considered a previous or subsequent conviction.  
[Other definitions would not change.]

### **§2953.36 CONVICTIONS PRECLUDING SEALING**

Sections 2953.31 to 2953.35 of the Revised Code do not apply to convictions when the offender is not eligible for ~~probation~~ COMMUNITY CONTROL, sentenced to a mandatory PRISON OR JAIL term, convictions under section 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.12, 2907.321, 2907.322, or 2907.323, or Chapter 4507., 4510., 4511., or 4549. of the Revised Code, or a conviction for a violation of a municipal ordinance that is substantially similar to any section contained in any of those chapters or bail forfeitures in a traffic case as defined in Traffic Rule 2.

## **GENERAL TRAFFIC CODE CHANGES**

### **§4501.01 DEFINITIONS**

As used in this chapter and Chapters 4503., 4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the Revised Code:

\* \* \*

(NN) **“Limited Driving Privileges”** MEANS THE PRIVILEGE TO OPERATE A VEHICLE GRANTED BY A COURT TO A PERSON WHO IS UNDER A SUSPENSION. THE PRIVILEGE SHALL BE FOR LIMITED PURPOSES INCLUDING, BUT NOT LIMITED TO, OCCUPATIONAL, EDUCATIONAL, VOCATIONAL, OR MEDICAL PURPOSES, TAKING THE DRIVER'S OR COMMERCIAL DRIVER'S LICENSE EXAMINATION, COURT ORDERED TREATMENT, AND OTHER REASONABLE PURPOSES. IN GRANTING PRIVILEGES THE COURT SHALL SPECIFY THE PURPOSES, TIMES, AND PLACES OF THE PRIVILEGES AND MAY IMPOSE ANY OTHER REASONABLE CONDITIONS ON THE PERSON'S DRIVING.

### **§4501.25 BMV FUND**

[Other law would change to make fees for failure to appear, bond forfeiture, implied consent reinstatement fees payable directly to BMV, rather than collected by courts (see proposed §§2935.27(D), 2937.221, 4510.22(A), & 4511.191(F)(2)(f)).]

### **§4501.31 CHANGE OF REGISTRAR'S ORDER BY APPEAL**

[Was §4507.27. Since this is general traffic law, it would be moved, without amendment.]

### **§4501.32 RECORDS AND PROCEEDINGS OF REGISTRAR**

[Was §4507.25. Since this is general traffic law, it would be moved, without amendment.]

### **§4501.33 INTERFERENCE BY A COURT**

[Was §4507.28. Since this is general traffic law, it would be moved, without amendment. A reference would be added to new Ch. 4510.]

### **§4501.34 PROSECUTOR TO ASSIST REGISTRAR**

[Was §4507.29. Since this is general traffic law, it would be moved, without amendment. A reference would be added to new Ch. 4510.]

## **LIMITS ON THE USE OR OWNERSHIP OF A VEHICLE**

### **§4503.231 RESTRICTED PLATES**

No motor vehicle registered in the name of a person whose certificate of registration and identification license plates have been impounded as provided by ~~division (F)(1) of section 4507.02~~ 4511.19 [OVI], 4510.11 [DUS], 4510.13 [OVI Suspension], 4510.14 [OVI/DUS], 4510.16 [FRA/DUS], OR 4511.191 [OVI/ALS] of the Revised Code shall be operated or driven on any highway in this state unless it displays RESTRICTED identification license plates which are a different color from those regularly issued and carry a special serial number that may be readily identified by law enforcement officers. The registrar of motor vehicles shall designate the color and serial number to be used on such license plates, which shall remain the same from year to year and shall not be displayed on any other motor vehicles.

The bureau of motor vehicles shall adopt rules providing for the decentralization of the issuance of ~~identification~~ RESTRICTED license plates under this section. The rules shall provide for the issuance of the ~~identification license~~ plates by at least one agency in each county.

### **§4503.233 IMMOBILIZATION ORDERS**

#### **(A) Scope of Section; Copy of Order**

(1) ~~As used in this section, "vehicle owner" means the person whose name is registered a vehicle that is subject to an immobilization order issued under division (A)(2) of this section.~~

(2) If a court is required to order the immobilization of a vehicle for a specified ~~period of time pursuant to division (B)(1) or (2), (C)(1) or (2), or (E)(1) of section 4507.99, pursuant to division (A)(2)(b) or (3)(b) of section 4511.99, pursuant to division (B)(1) or (2) or (C)(1) or (2) of section 4507.361, SECTIONS 4510.11, 4510.13, 4510.14, 4510.16, 4510.41, 4511.19, 4511.191, or pursuant to division (B)(2)(a) or (b) of section 4511.193 of the Revised Code, the court shall issue an immobilization order, subject to section 4503.235 of the Revised Code, in accordance with . . . . The court, at the time of sentencing the offender for the offense relative to which the immobilization order is issued or as soon thereafter as is practicable, shall give a copy of the order to the offender or the offender's counsel and to the vehicle owner or the vehicle owner's counsel. The court promptly shall send a copy of the order to the registrar . . . .~~

\* \* \*

[Provisions on the contents of the order, seizure of plates, immobilization fee, forfeiture, storage costs, actual immobilization, & plate destruction would remain the same.]

#### **(D) Impact of Immobilization Order**

(1) **Credit** If the court issues an immobilization order under division (A) of this section, the immobilization period commences on the day on which the vehicle in question is immobilized. If the vehicle in question had been seized under section ~~4507.38~~ 4510.41 OR 4511.195 of the Revised Code, the time between the seizure and the beginning of the immobilization period shall be credited against the immobilization order issued under division (A) of this section. No vehicle that is ~~impounded~~ IMMOBILIZED under this section is eligible to have ~~special~~ RESTRICTED plates of the ~~type described in~~ UNDER section 4503.231 of the Revised Code issued for that vehicle.

(2) **Seizure** If the court issues an immobilization order under division (A) of this section . . . the vehicle . . . shall be seized, removed from the street or highway, and criminally forfeited and disposed of pursuant to section 4503.234 of the Revised Code IF IT IS REGISTERED IN THE NAME OF THE OFFENDER. . . . [No further changes].

(3) **After Immobilization Period** If the court issues an immobilization order under division (A) of this section, and if the vehicle is not claimed within seven days after the end of the period of immobilization or if the ~~vehicle owner~~ OFFENDER has not paid the immobilization fee, the person or agency that immobilized the vehicle shall send a written notice to the ~~vehicle owner~~ OFFENDER at the ~~vehicle owner's~~ OFFENDER'S last known address informing the ~~vehicle owner~~ OFFENDER of the date in which the period of immobilization ended, that the vehicle owner has twenty days after the date of the notice to pay the immobilization fee and obtain the release of the vehicle, and that if the ~~vehicle owner~~ OFFENDER does not pay the fee and obtain the release of the vehicle within that twenty-day period, the vehicle will be forfeited under section 4503.234 of the Revised Code to the entity that is entitled to the immobilization fee.

[The remaining paragraphs would not change, except to make clear that the provisions apply to the "offender" rather than the "vehicle owner", as in (3), above.]

## §4503.234 CRIMINAL FORFEITURES

(A) ~~As used in this section, "vehicle owner" means the person in whose name is registered a vehicle that is subject to an order of forfeiture issued under this section.~~

(B) **Scope of Section** If a court is required by section 4503.233, ~~4503.236, 4507.361, 4507.99,~~ 4510.13, 4510.14, 4510.16, 4510.41, 4511.19, 4511.191, 4511.193, or ~~4544.99~~ 4511.203 of the Revised Code to order the criminal forfeiture of a vehicle, the order shall be issued and enforced in accordance with this division, subject to division ~~(C)~~ (B) of this section and ~~section 4503.235 of the Revised Code.~~ . . . A forfeiture order may be issued only after the ~~vehicle owner~~ OFFENDER has been provided with an opportunity to be heard. The prosecuting attorney shall give the ~~vehicle owner~~ OFFENDER written notice of the possibility of forfeiture by sending a copy of the relevant uniform traffic ticket or other written notice to the ~~vehicle owner~~ OFFENDER not less than seven days prior to the date of issuance of the forfeiture order. A vehicle is subject to an order of criminal forfeiture pursuant to this division upon the conviction of the offender of or a plea of guilty by the offender to a violation of ~~division (A) of section 4503.236, division (B)(1) or (D)(2) of section 4507.02, section 4507.33, or division (A) of section 4510.14, 4510.16, 4511.19, 4511.191, OR 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to division (A) of section 4503.236, division (B)(1) or (D)(2) of section 4507.02, section 4507.33, or division (A) of section 4511.19 of the Revised Code~~ THOSE SECTIONS.

~~(C)~~ (B)

(1) **Lien & Interest Holder Search** Prior to the issuance of an order of criminal forfeiture ~~pursuant to division (B) of this section~~, the law enforcement agency . . . [no further changes].

(2) **Lien Holder Defense** No order of criminal forfeiture shall be issued ~~pursuant to division (B) of this section~~ if a lienholder or other person with an ownership interest in the vehicle establishes to the court, by a preponderance of the evidence . . . , the

lienholder or other person neither knew nor should have known after a reasonable inquiry that the vehicle would be used or involved, or likely would be used or involved, in the violation . . . , that the lienholder or other person did not expressly or impliedly consent to the use or involvement of the vehicle in that violation, and that the lien or ownership interest was perfected pursuant to law prior to the seizure of the vehicle under section ~~4503.236, 4507.33~~ 4511.195, or 4511.203 of the Revised Code. If the lienholder or holder of the ownership interest satisfies the court . . . the court either shall return the vehicle to the holder, or shall order that the proceeds of any sale held pursuant to division ~~(D)~~ (C)(2) of this section be paid to the lienholder or holder of the interest less the costs of the seizure, storage, and maintenance of the vehicle. The court shall not return a vehicle to a lienholder or a holder of an ownership interest ~~under division (C)(2) of this section~~ unless the lienholder . . . [no further changes].

(3) **Interest Holder Defense** No order of criminal forfeiture shall be issued pursuant to ~~division (B) of this section~~ if a person with an interest in the vehicle establishes to the court, by a preponderance of the evidence . . . that the person neither knew or should have known after a reasonable inquiry that the vehicle has been used or was involved in the violation . . . , that the person did not expressly or impliedly consent to the use or involvement of the vehicle in that violation, that the interest was perfected in good faith and for value pursuant to law between the time of the arrest of the offender and the final disposition of the criminal charge in question, and that the vehicle was in the possession of the ~~vehicle owner~~ INTEREST HOLDER at the time of the perfection of the interest. If the court is satisfied that the interest holder has met these criteria, the court shall preserve the interest holder's interest, and the court shall either return the vehicle to the interest holder or order that the proceeds of any sale held pursuant to division ~~(D)~~ (C) of this section be paid to the holder of the interest less the costs of seizure, storage, and maintenance of the vehicle. The court shall not return a vehicle to an interest holder ~~under division (C)(3) of this section~~ unless the holder . . . [no further changes].

~~(D)~~ (C) **Disposal** A vehicle ordered criminally forfeited to the state pursuant to ~~division (B) of~~ this section shall be disposed of as follows:

[The rest of this division would remain the same, except cross-references in (C)(2), (C)(2)(b), (C)(2)(c), & (C)(2)(d) change to reflect the elimination of current (A) above.]

~~(E)~~ (D) **Registrar Limitations** Notwithstanding any other provision of law, neither the registrar of motor vehicles nor any deputy registrar shall accept an application for the registration . . . if both of the following apply:

(1) Any vehicle registered in the person's name was criminally forfeited to the state under ~~division (B) of this section and section 4503.233, 4503.236, 4507.361, 4510.10, 4510.13, 4510.14, 4510.41, 4510.43, 4511.19, 4511.191, 4511.193, or 4544.99~~ 4511.203 of the Revised Code;

(2) Less than five years have expired since the issuance of the most recent order of criminal forfeiture issued in relation to a vehicle registered in the person's name.

~~(F)~~ (E) **Fine** If the court is required by sections 4503.233, ~~4507.99~~ 4507.361, or 4511.19, OR CHAPTER 4507. OR 4510. of the Revised Code to order the criminal forfeiture to the state of a vehicle, and the title to the motor vehicle is assigned or transferred, and division ~~(C)~~ (B)(2) or (3) of this section 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 automobile dealer's association. The proceeds from any fine imposed under THIS division ~~(F) of this section~~ shall be distributed in accordance with division ~~(D)(4)~~ (C)(2) of this section.

~~(G)~~(F) **Definition** As used in ~~division (D)~~ of this section and divisions (D)(1)(c), (2), and (D)(3)(a)(ii) of section 2933.43 of the Revised Code in relation to proceeds of the sale of a vehicle under division ~~(D)~~ (C) of this section, "prosecuting attorney" includes the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer of a municipal corporation who prosecutes the case resulting in the conviction or guilty plea in question.

[The rest of the section would not change, except to reflect the new division references in light of the repeal of current (A).]

#### **§4503.235 INNOCENT OWNER**

[Provides a defense to forfeiture. It would be repealed because of changes in wrongful entrustment and the elimination of 3<sup>rd</sup> party seizures.]

#### **§4503.236 OPERATING AN IMMOBILIZED VEHICLE; FORFEITURE**

[Currently prohibits operating a vehicle that was ordered immobilized and forfeits the vehicle. It would be repealed in light of wrongful entrustment and other changes.]

### **CDL EXCEPTION**

#### **§4506.02 COMMERCIAL DRIVER'S LICENSE EXEMPTIONS**

(A) Nothing in this chapter applies to any person when engaged in the operation of any of the following:

- (1) A farm truck;
- (2) Fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, or joint fire district;
- (3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;
- (4) A recreational vehicle;
- (5) THE OCCASIONAL TRANSPORTATION OF PERSONAL PROPERTY BY INDIVIDUALS NOT FOR COMPENSATION OR IN THE FURTHERANCE OF A COMMERCIAL ENTERPRISE.

[The rest of the section would not change.]

### **DRIVER'S LICENSE LAW**

#### **§4507.01 DEFINITIONS & REGISTRAR'S DUTIES**

[No changes]

#### **§4507.012 SUSPENSION OR REVOCATION DEFINED**

[Repeal. Superseded by proposed §4510.01.]

**§4507.023 ADDRESS OF SUSPENDED OR CANCELED LICENSEE**

[Make technical changes to “cancel” rather than “revoke” a license.]

**§4507.03 EXEMPTIONS FROM LICENSING**

[No changes]

**§4507.04 EXEMPTION FOR NONRESIDENTS**

[No changes]

**§4507.05 TEMPORARY INSTRUCTION PERMIT**

[No changes]

**§4507.06 APPLICATION FOR LICENSE**

[Make technical changes to “cancel” rather than “revoke” a license.]

**§4507.07 MINORS’ LICENSES**

[No changes]

**§4507.08 LICENSE AND PERMIT RESTRICTIONS**

[Eliminate the M-1 penalty since there is no true prohibition, other than for the Registrar. Add a cross-reference to new Ch. 4510. Make technical changes to “cancel” rather than “revoke” a license. Put the suspension in Class C.]

**§4507.081 ANNUAL LICENSE FOLLOWING RESTRICTED LICENSE**

[Eliminate the M-1 penalty since there is no true prohibition, other than for the Registrar. Make technical changes to “cancel” rather than “revoke” a license.]

**§4507.09 EXPIRATION AND RENEWAL OF LICENSES**

[No changes]

**§4507.10 LICENSE EXAM; EXCEPTIONS**

[No changes]

**§4507.11 SCOPE OF EXAM**

[No changes]

**§4507.111 DEFAULT ON CHILD SUPPORT**

[No changes]

**§4507.12 VISION SCREENING**

[No changes]

**§4507.13 CONTENTS OF LICENSE**

[Put the MM penalty here, if .99 is repealed.]

**§4507.14 RESTRICTIONS ON LICENSE BY REGISTRAR**

[Make technical changes to “cancel” rather than “revoke” a license.]

**§4507.141 I.D. CARD FOR HEARING-IMPAIRED PERSONS**

[No changes]

**§4507.15 COURT REPORTS OF CONVICTIONS AND FORFEITURES**

[Refer to new Ch. 4510.]

**§4507.16 SUSPENSION OR REVOCATION OF LICENSES**

[Repeal. Superseded in part by proposed Ch. 4510. Current (B), dealing with OVI suspensions would be simplified and integrated into the new OVI statute (§4511.19). Current (C) would be repealed outright. Current (D) would be made obsolete by changes to the vehicular deaths law. Current (E), dealing with underage OVI suspensions, also would be repealed in light of changes to §4511.19. Current (F) through (L), dealing with occupational driving privileges, are effectively superseded by proposed §4510.13 and changes in the OVI law.]

**§4507.165 SUSPENSION FOR FAILING TO STOP FOR A SCHOOL BUS, ETC.**

[Repeal. Largely duplicated by §4511.75. Move suspension to §4511.75, put in Class 6.]

**§4507.169 DRUG OFFENSE SUSPENSIONS**

[Repeal. Suspensions are retained in the substantive drug sections and made court-ordered.]

**§4507.19 BMV LICENSE CANCELLATION**

The registrar of motor vehicles may ~~suspend~~ or cancel any driver's license ~~upon determination~~ that was obtained unlawfully, issued in error, or has been altered or willfully destroyed.

**§4507.20 DRIVER'S LICENSE TEST FOR CAUSE**

The registrar of motor vehicles, ~~upon determination that any person has more than seven points charged against him under section 4507.021 of the Revised Code, and is not subject to the provisions of section 4507.022 of the Revised Code, or,~~ having good cause to believe that the holder of a driver's or commercial driver's license is incompetent or otherwise not qualified to be licensed, shall upon written notice of at least ~~five~~ THIRTY days sent to the licensee's last known address, require ~~him~~ THE PERSON to submit to a driver's license examination or a physical examination, or both, or a commercial driver's license examination. Upon the conclusion of the

examination the registrar may suspend ~~or revoke~~ the license of the person, or may permit ~~him~~ THE PERSON to retain the license, or may issue ~~him~~ THE PERSON a restricted license. Refusal or neglect of the licensee to submit to the examination is ground for suspension ~~or revocation~~ of ~~his~~ THE license.

**§4507.21 APPLICATION AND ISSUANCE OF LICENSE**

[Make technical changes to “cancel” rather than “revoke” a license.]

**§4507.212 APPLICANT’S STATEMENT**

[No changes]

**§4507.22 TRANSMISSION OF APPLICATION TO REGISTRAR**

[No changes]

**§4507.23 LICENSE FEES**

[No changes]

**§4507.24 FEES FOR DEPUTY REGISTRARS**

[No changes]

**§4507.25 RECORDS AND PROCEEDINGS OF REGISTRAR**

[No changes]

**§4507.28 RESTRICTIONS AGAINST INTERFERENCE OF COURT**

[Add a cross-reference to new Ch. 4510.]

**§4507.29 PROSECUTOR TO ASSIST REGISTRAR COURT**

[Add a cross-reference to new Ch. 4510.]

**§4507.30 MISUSE OF A LICENSE, ETC.**

[Integrate the M-1 penalty here, if .99 is repealed. Eliminate reference to “revoked” license.]

**§4507.31 PERMITTING A MINOR TO OPERATE A VEHICLE**

[Integrate the M-1 penalty here, if .99 is repealed.]

**§4507.321 EMPLOYING A MINOR TO OPERATE A TAXICAB**

[Integrate the M-1 penalty here, if .99 is repealed.]

**§4507.33 RESTRICTION AGAINST OWNER LENDING VEHICLE TO ANOTHER**

[Repeal. Duplicates wrongful entrustment (§4511.203).]

**§4507.35 DISPLAY OF LICENSE**

[Integrate the M-1 penalty here, if .99 is repealed.]

**§4507.36 FALSE STATEMENTS**

[Integrate the M-1 penalty here, if .99 is repealed.]

**§4507.50 IDENTIFICATION CARDS FOR UNLICENSED OPERATORS**

[Make technical changes to “cancel” rather than “revoke” a license.]

**§4507.51 APPLICATION FOR IDENTIFICATION CARD**

[No changes]

**§4507.52 FORM OF THE IDENTIFICATION CARD**

[Integrate the MM penalty here, if .99 is repealed.]

**§4507.53 LIMIT ON RELEASE OF DIGITALIZED PHOTOGRAPHS**

[No changes]

**§4507.99 DRIVER’S LICENSE PENALTIES**

[Repeal and integrate penalties as noted above. Repeal outright M-1 penalty for driving under incompetency suspension (see proposed §4510.23).]

**DRIVING SCHOOLS LAW**

**§4508.02 ENFORCEMENT BY THE PUBLIC SAFETY DIRECTOR**

[Add a cross-reference to new §4508.09.]

**§4508.03 LICENSE FOR SCHOOLS**

(A) No commercial driver training school shall be established nor any such existing school continued unless the school applies for and obtains from the director of public safety a license in the manner and form prescribed by the director. . . [No changes].

(B) Any school that offers a driver training program for handicapped persons shall provide specially trained instructors for the driver training of such persons. No school shall operate a driver training program for handicapped persons after June 30, 1978, unless it has been

licensed for such operation by the director. No person shall act as a specially trained instructor in a driver training program for handicapped persons operated by a school after June 30, 1978, unless that person has been licensed by the director.

[Divisions (C) & (D), authorizing state universities to provide training and defining "handicapped" would not change.]

(E) WHOEVER VIOLATES THIS SECTION IS GUILTY OF A MINOR MISDEMEANOR. IF, WITHIN TWO YEARS THE PERSON IS CONVICTED OF ANOTHER VIOLATION OF THIS SECTION, THE VIOLATION IS A MISDEMEANOR OF THE FOURTH DEGREE.

#### **§4508.04 LICENSE FOR INSTRUCTORS**

(A) No person shall act as a driver training instructor and on and after June 30, 1978, no person shall act as a driver training instructor for handicapped persons unless such person applies for and obtains from the director of public safety a license in the manner and form prescribed by the director. NO PERSON SHALL APPLY FOR THE LICENSE IF THE PERSON HAS BEEN CONVICTED UNDER THE LAWS OF THIS STATE OR THE COMPARABLE LAWS OF ANOTHER JURISDICTION, WITHIN TEN YEARS OF THE APPLICATION DATE, OF A FELONY, OR, WITHIN FIVE YEARS OF THE APPLICATION DATE, OF A MISDEMEANOR OF THE FIRST OR SECOND DEGREE THAT IS REASONABLY RELATED TO THE PERSON'S APPLICATION. The director shall provide by rule for instructors' license requirements including... [no further changes].

NO PERSON SHALL KNOWINGLY MAKE A FALSE STATEMENT ON THE LICENSE APPLICATION.

(B) WHOEVER VIOLATES THIS SECTION MAY BE CHARGED WITH FALSIFICATION UNDER SECTION 2921.13 OF THE REVISED CODE.

#### **§4508.06 SUSPENSION OR REVOCATION OF LICENSE**

(A) The director of public safety may refuse to issue, or may suspend or ~~revoke~~ CANCEL a license in any case where ~~he~~ THE DIRECTOR finds the applicant or licensee has violated any of the provisions of sections 4508.01 to 4508.07 of the Revised Code, or the regulations adopted by the director.

A NO PERSON WHOSE LICENSE WAS suspended or ~~revoked license~~ CANCELLED shall FAIL TO RETURN THE LICENSE ~~be returned~~ to the director ~~by the licensee~~.

(B) WHOEVER VIOLATES THIS SECTION IS GUILTY OF OPERATING A DRIVING SCHOOL WITHOUT A VALID LICENSE, A MINOR MISDEMEANOR. IF, WITHIN TWO YEARS, THE PERSON IS CONVICTED OF ANOTHER VIOLATION OF THIS SECTION, THE VIOLATION IS A MISDEMEANOR OF THE FOURTH DEGREE.

#### **§4508.09 OPERATING AN UNSAFE VEHICLE**

(A) NO PERSON OPERATING A DRIVING TRAINING SCHOOL SHALL USE OR CAUSE TO BE USED ANY UNSAFE VEHICLE IN THE OPERATION OF THE DRIVING SCHOOL UPON ANY PUBLIC OR PRIVATE PROPERTY USED FOR THE PURPOSES OF VEHICULAR TRAFFIC.

(B) WHOEVER VIOLATES THIS SECTION IS GUILTY OF USING AN UNSAFE VEHICLE AT A DRIVING SCHOOL, A MINOR MISDEMEANOR. IF, WITHIN TWO YEARS THE PERSON IS CONVICTED OF ANOTHER VIOLATION OF THIS SECTION, THE VIOLATION IS A MISDEMEANOR OF THE FOURTH DEGREE.

## §4508.99 PENALTIES

[The draft would repeal 4508.99, classify penalties, and merge them into the substantive offenses.]

# FINANCIAL RESPONSIBILITY LAW

## §4509.101 DRIVING WITHOUT PROOF OF FINANCIAL RESPONSIBILITY

### (A) Offense

(1) No person shall operate, or permit the operation of a motor vehicle in this state, unless proof of financial responsibility is maintained continuously throughout the registration period with respect to that vehicle, or, in the case of a driver who is not the owner, with respect to his THAT DRIVER'S operation of that vehicle.

(2) **Penalties** Whoever violates division (A)(1) of this section shall be subject to the following civil penalties:

(a) ~~Suspension of the person's operating privileges~~ A CLASS E SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE and impoundment of the person's license until the person complies with division (A)(5) of this section. ~~The suspension shall be for a period of not less than ninety days except that if, within five years of the violation, the person's operating privileges are again suspended and the person's license is impounded one or more times for a violation of division (A)(1) of this section, the suspension shall be for a period of one year. Except as provided by section 4509.105 of the Revised Code, the suspension is not subject to revocation, suspension, occupational, or other limited operating privileges. LIMITED DRIVING PRIVILEGES MAY BE GRANTED BY THE COURT ONLY IF THE PERSON PRESENTS PROOF OF FINANCIAL RESPONSIBILITY AND HAS COMPLIED WITH DIVISION (A)(5) OF THIS SECTION. except that~~

(b) ~~if IF within five years of the violation, the person's operating privileges are again suspended and the person's license is AGAIN impounded one or more time for a violation of division (A)(1) of this section, A CLASS C SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. LIMITED DRIVING PRIVILEGES MAY BE GRANTED BY THE COURT ONLY IF THE PERSON PRESENTS PROOF OF FINANCIAL RESPONSIBILITY AND HAS COMPLIED WITH DIVISION (A)(5) OF THIS SECTION. HOWEVER, NO COURT SHALL GRANT LIMITED DRIVING PRIVILEGES FOR THE FIRST FIFTEEN DAYS OF the suspension shall be for a period of not less than one year. The suspension is not subject to revocation, suspension, or occupation or other limited operating privileges.~~

(b) ~~In addition to the suspension of an owner's license under division (A)(2)(a) of this section, the suspension of the rights of the owner to register the motor vehicle and the impoundment of the owner's certificate of registration and registration plates until the owner complies with division (A)(5) of this section.~~

(c) IF WITHIN FIVE YEARS OF THE VIOLATION, THE PERSON'S OPERATING PRIVILEGES ARE SUSPENDED AND THE PERSON'S LICENSE

IS IMPOUNDED TWO OR MORE TIMES FOR A VIOLATION OF DIVISION (A)(1) OF THIS SECTION, A CLASS B SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. NO COURT SHALL GRANT LIMITED DRIVING PRIVILEGES DURING THE SUSPENSION.

[The rest of the section would remain the same but be renumbered.]

**§4509.105 OCCUPATIONAL DRIVING PRIVILEGES**

[Repealed in light of new §§4501.01(NN), 4510.02(C), & 4509.101.]

**§4509.17 SUSPENSION FOR FAILING TO DEPOSIT SECURITY**

[Reclassify as a Class F suspension under §4510.02(B).]

**§4509.24 BREACH OF AGREEMENT BY PARTIES IN ACCIDENT**

[Reclassify as a Class F suspension under §4510.02(B).]

**§4509.291 NONRESIDENT'S FAILURE TO DEPOSIT SECURITY**

[Reclassify as a Class F suspension under §4510.02(B).]

**§4509.31 SUSPENSION FOR DUS & PROOF OF F.R.**

[Repeal given the repeal of §4507.16.]

**§4509.33 SUSPENSION OF NONRESIDENT'S PRIVILEGES**

[Amend to delete the terms "revoke" and "revocation", to delete the reference to repealed §4507.16, to include a cross-reference to new Ch. 4510, and to reclassify as a Class F suspension under §4510.02(B).]

**§4509.37 F.R. JUDGMENT DEBTOR SUSPENSION**

[Reclassify as a Class F suspension under §4510.02(B). No other changes.]

**§4509.40 F.R. SUSPENSION UNTIL SETTLEMENT OF JUDGMENT**

[Reclassify as a Class F suspension under §4510.02(B). No other changes.]

**§4509.42 PAYMENT OF JUDGMENT IN INSTALLMENTS**

[Reclassify as a Class F suspension under §4510.02(B). No other changes.]

**§4509.45 PROOF OF FINANCIAL RESPONSIBILITY**

[The introductory paragraph should be labeled "(A)" and current divisions (A) - (E) should be numbered (1) - (5). Otherwise, the language would not change, except to fix a gender specific reference in current (E).]

(B) ~~Such proof~~ PROOF UNDER DIVISION (A) OF THIS SECTION shall be filed and maintained for five years from the date of A CLASS ONE, TWO, OR THREE suspension of

operating privileges by the registrar of motor vehicles. SUCH PROOF SHALL BE FILED AND MAINTAINED FOR THREE YEARS FROM THE DATE OF A CLASS FOUR, FIVE, OR SIX SUSPENSION OF OPERATING PRIVILEGES BY REGISTRAR.

#### **§4509.81 REGISTRAR'S DUTIES IN F.R. SUSPENSIONS**

[Strike the reference to "or revocation" from division (C). No other changes.]

#### **§4509.99 FINANCIAL RESPONSIBILITY LAW PENALTIES**

[Repeal, if feasible, and place penalties in the substantive sections, as indicated.]

### **DRIVER'S LICENSE SUSPENSION LAW**

[In bill form, this would appear in upper case, since it would be a new Chapter. It is sometimes presented in mixed cases here to show changes from current law.]

#### **§4510.01 DRIVER'S LICENSE SUSPENSIONS, ETC. DEFINITIONS**

AS USED IN THIS TITLE AND IN THE PENAL LAWS:

(A) **"CANCEL"** OR "CANCELLATION" MEANS THE ANNULMENT OR TERMINATION, BY THE BUREAU OF MOTOR VEHICLES, OF A DRIVER'S LICENSE, COMMERCIAL DRIVER'S LICENSE, TEMPORARY INSTRUCTION PERMIT, PROBATIONARY LICENSE, OR NONRESIDENT OPERATING PRIVILEGE BECAUSE IT WAS OBTAINED UNLAWFULLY, ISSUED IN ERROR, ALTERED, OR WILLFULLY DESTROYED, OR BECAUSE THE HOLDER IS NO LONGER ENTITLED TO THE LICENSE OR PRIVILEGE.

(B) **"MOVING VIOLATION"** MEANS ANY VIOLATION OF ANY STATUTE OR ORDINANCE, OTHER THAN SECTION 4513.263 OF THE REVISED CODE OR A SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE, THAT REGULATES THE OPERATION OF VEHICLES, STREETCARS, OR TRACKLESS TROLLEYS ON THE HIGHWAYS OR STREETS. "MOVING VIOLATION" DOES NOT INCLUDE THE VIOLATION OF ANY STATUTES OR ORDINANCES THAT REGULATE PEDESTRIANS OR THE PARKING OF VEHICLES, VEHICLE SIZE OR LOAD LIMITATIONS, VEHICLE FITNESS REQUIREMENTS, OR VEHICLE REGISTRATION.

(C) **"SUSPEND"** OR "SUSPENSION" MEANS THE PERMANENT OR TEMPORARY WITHDRAWAL, BY ACTION OF A COURT OR THE BUREAU OF MOTOR VEHICLES, OF A DRIVER'S LICENSE, COMMERCIAL DRIVER'S LICENSE, TEMPORARY INSTRUCTION PERMIT, PROBATIONARY LICENSE, OR NONRESIDENT OPERATING PRIVILEGE FOR THE PERIOD OF THE SUSPENSION OR THE PERMANENT OR THE PERMANENT OR TEMPORARY WITHDRAWAL OF THE PRIVILEGE TO OBTAIN SUCH A LICENSE, PERMIT, OR PRIVILEGE FOR THE PERIOD OF THE SUSPENSION.

#### **§4510.02 CLASSES OF SUSPENSIONS**

(A) **Court Suspensions** WHEN A COURT ELECTS, OR IS REQUIRED, TO SUSPEND THE DRIVER'S LICENSE, COMMERCIAL DRIVER'S LICENSE, PERMIT, OR NONRESIDENT OPERATING PRIVILEGE OF ANY OFFENDER, THE PERIOD OF SUSPENSION SHALL BE AS FOLLOWS:

- (1) FOR A CLASS ONE SUSPENSION, A DEFINITE PERIOD OF THREE YEARS

- TO LIFE;
- (2) FOR A CLASS TWO SUSPENSION, A DEFINITE PERIOD OF TWO TO TEN YEARS;
  - (3) FOR A CLASS THREE SUSPENSION, A DEFINITE PERIOD OF ONE TO FIVE YEARS;
  - (4) FOR A CLASS FOUR SUSPENSION, A DEFINITE PERIOD OF SIX MONTHS TO THREE YEARS;
  - (5) FOR A CLASS FIVE SUSPENSION, A DEFINITE PERIOD OF THREE MONTHS TO TWO YEARS;
  - (6) FOR A CLASS SIX SUSPENSION, A DEFINITE PERIOD NOT TO EXCEED ONE YEAR.

THE COURT MAY REQUIRE A PERSON TO SUCCESSFULLY COMPLETE A REMEDIAL DRIVING COURSE AS A CONDITION FOR THE RETURN OF FULL DRIVING PRIVILEGES AFTER THE SUSPENSION PERIOD ENDS.

**(B) BMV Suspensions** WHEN THE BUREAU OF MOTOR VEHICLES ELECTS, OR IS REQUIRED, TO SUSPEND THE DRIVER'S LICENSE, COMMERCIAL DRIVER'S LICENSE, PERMIT, OR NONRESIDENT OPERATING PRIVILEGES OF ANY OFFENDER, THE PERIOD OF SUSPENSION SHALL BE AS FOLLOWS:

- (1) FOR A CLASS A SUSPENSION, THREE YEARS;
- (2) FOR A CLASS B SUSPENSION, TWO YEARS;
- (3) FOR A CLASS C SUSPENSION, ONE YEAR;
- (4) FOR A CLASS D SUSPENSION, SIX MONTHS;
- (5) FOR A CLASS E SUSPENSION, THREE MONTHS;
- (6) FOR A CLASS F SUSPENSION, UNTIL CONDITIONS ARE MET.

**(C) Limited Driving Privileges/Immobilizing Devices** UNLESS EXPRESSLY PROHIBITED BY A SECTION OF THE REVISED CODE, THE COURT MAY GRANT LIMITED DRIVING PRIVILEGES DURING ANY SUSPENSION IMPOSED BY THE COURT. HOWEVER, UNLESS EXPRESSLY AUTHORIZED BY A SECTION OF THE REVISED CODE, THE COURT MAY NOT GRANT LIMITED DRIVING PRIVILEGES DURING ANY SUSPENSION IMPOSED BY THE BUREAU OF MOTOR VEHICLES. TO OBTAIN PRIVILEGES DURING A SUSPENSION IMPOSED BY THE BUREAU, A PETITION SHALL BE FILED IN A COURT OF RECORD IN THE COUNTY IN WHICH THE PERSON UNDER SUSPENSION RESIDES. IF THE PERSON IS NOT A RESIDENT OF THIS STATE, ANY PETITION FOR PRIVILEGES SHALL BE FILED IN THE FRANKLIN COUNTY MUNICIPAL COURT, OR, IF A MINOR, IN THE FRANKLIN COUNTY JUVENILE COURT.

WHEN THE USE OF AN IMMOBILIZING OR DISABLING DEVICE IS NOT OTHERWISE REQUIRED BY LAW, THE COURT MAY, AS A CONDITION OF GRANTING LIMITED DRIVING PRIVILEGES, REQUIRE THAT THE OFFENDER'S VEHICLE BE EQUIPPED WITH SUCH A DEVICE.

BEFORE GRANTING PRIVILEGES UNDER THIS DIVISION, THE COURT SHALL REQUIRE THE OFFENDER TO PROVIDE PROOF OF FINANCIAL RESPONSIBILITY PURSUANT TO SECTION 4509.45 OF THE REVISED CODE.

### **§4510.03 POINTS SYSTEM FOR TRAFFIC VIOLATIONS**

[Was §4507.021. Divisions (A) through (F), which establish the point system, would be the same.]

\* \* \*

**(G) Points** Every court of record or mayor's court before which a person is charged with a violation for which points are chargeable by this section, shall, AND A FEDERAL COURT WHOSE JURISDICTION LIES WITHIN THIS STATE AND BEFORE WHICH SUCH A PERSON IS CHARGED MAY, assess and transcribe to the abstract of the conviction report, furnished by

the bureau, the number of points chargeable by this section in the correct space assigned on the reporting form. ~~A United States district court whose jurisdiction lies within this state and before whom a person is charged with a violation for which points are chargeable by this section may assess and transcribe to the abstract of conviction report, furnished by the bureau, the number of points chargeable by this section in the correct space assigned on the reporting form.~~ If the FEDERAL court so assesses and transcribes ~~to the abstract of conviction report~~ the number of points chargeable, the bureau shall record the points in the same manner as those assessed and transcribed by every court of record or mayor's court ~~of this state~~. The points shall be assessed based upon the following formula:

~~(3)~~(1) Aggravated vehicular homicide, ~~or vehicular homicide,~~ VEHICULAR MANSLAUGHTER, AGGRAVATED VEHICULAR ASSAULT, OR VEHICULAR ASSAULT when either involves the operation of a vehicle, streetcar, or trackless trolley on a highway or street ..... 6 points

(2) ~~Violation of section 2913.03 of the Revised Code, except the provisions relating to use or operation of an aircraft or motorboat, or any ordinance prohibiting the operation of a vehicle without the consent of the owner.....~~ 6 points

~~(6)~~ Violation of section 2921.331 of the Revised Code or any ordinance prohibiting the willful fleeing or eluding of a police LAW ENFORCEMENT officer..... 6 points

~~(5)~~(3) Violation of section 4549.02 or 4549.021 of the Revised Code or any ordinance requiring the driver of a vehicle to stop and disclose identity at the scene of an accident ..... 6 points

~~(9)~~(4) Violation of section 4511.251 of the Revised Code or any ordinance prohibiting street racing ..... 6 points

~~(1)~~(5) Violation of ~~division (B), (C), or (D) of section 4507.02~~ 4510.11 [DUS], 4510.14 [driving under OVI suspension], OR 4510.16 [driving under FRA suspension] of the Revised Code or any ordinance prohibiting the operation of a motor vehicle while the driver's or commercial driver's license is under suspension ~~or revocation~~..... 6 points

~~(4)~~(6) Violation of division (A) of section 4511.19 of the Revised Code, any ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or ~~alcohol and a drug of abuse~~ COMBINATION OF THEM, or any ordinance substantially equivalent to division (A) of section 4511.19 of the Revised Code prohibiting the operation of a vehicle with a prohibited concentration of alcohol in the WHOLE blood, BLOOD SERUM OR PLASMA, breath, or urine ..... 6 points

(7) ~~Any crime punishable as a felony under the motor vehicle laws of this state, or any other felony in the commission of which a motor vehicle was used~~ ..... 6 points

~~(11)~~ Violation of division (B) of section 4511.19 of the Revised Code or any ordinance substantially equivalent to that division prohibiting the operation of a vehicle within a prohibited concentration of alcohol in the WHOLE blood, BLOOD SERUM OR PLASMA, breath, or urine ..... 4 points

~~(10)~~(8) Violation of section 4511.20 of the Revised Code or any ordinance prohibiting the operation of a motor vehicle in willful or wanton disregard of the safety of persons or property ..... 4 points

~~(13)~~(9) Upon first violation VIOLATION of a limitation under ~~division (D) of section 4511.21 of the Revised Code at a ANY LAW OR ORDINANCE PERTAINING TO speed in excess of seventy-five miles per hour;~~

- (a) NOTWITHSTANDING DIVISIONS (G)(9)(b) AND (c) OF THIS SECTION, WHEN THE SPEED EXCEEDS THE LAWFUL SPEED LIMIT BY THIRTY MILES PER HOUR OR MORE ..... 4 POINTS
- (b) WHEN THE SPEED EXCEEDS THE LAWFUL LIMIT OF FIFTY-FIVE MILES PER HOUR OR MORE BY MORE THAN TEN MILES PER HOUR ..... 2 POINTS
- (c) WHEN THE SPEED EXCEEDS THE LAWFUL LIMIT OF LESS THAN FIFTY-FIVE MILES PER HOUR BY MORE THAN FIVE MILES PER HOUR ..... 2 POINTS
- (d) WHEN THE SPEED DOES NOT EXCEED THE AMOUNTS SET FORTH IN DIVISIONS (G)(9)(a), (b) OR (c) OF THIS SECTION ..... 0 POINTS
- ~~(12) Violation of any law or ordinance pertaining to speed, except as otherwise provided in this section and in division (G) of section 4511.21 of the Revised Code ..... 2 points~~
- ~~(8)(10) Operating a motor vehicle in violation of a restriction imposed by a registrar ..... 2 points~~
- ~~(14) Upon a second violation within one year of the first violation of a limitation under division (D) of 4511.21 of the Revised Code, for each increment of five miles per hour in excess of the posted speed limit, exclusive of the first five miles per hour over the limitation ..... 1 point~~
- ~~(15) Upon a third or subsequent violation within one year of the first violation of a limitation under division (D) of section 4511.21 of the Revised Code, for each increment of five miles per hour in excess of the posted speed limit, exclusive of the first five miles per hour over the limitation ..... 2 points~~
- (16)(11) A ALL other moving violations pertaining to the operation of motor vehicles reported under this section, except any violations of section 4513.263 of the Revised Code or any substantively comparable ordinance, or violations under Chapter 5577. of the Revised Code WEIGHT LIMIT, VEHICLE REGISTRATION, OR SEAT BELT LAWS ..... 2 points

[Divisions (H) through (J) would not change.]

(K) **License Suspension** When, upon determination of the registrar, ~~any person has charged against the person~~ a total of not less than twelve points ARE CHARGED AGAINST A PERSON within a period of two years from the date of the first conviction within the two-year period, the registrar shall send written notification to the person at the person's last known address, that the ~~person's driver's or commercial driver's license shall be suspended for six months~~ POINTS RESULT IN A CLASS D SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE, effective on the twentieth day after mailing the notice, unless the person files a petition in the municipal ~~court~~ or the county court, or in case such person is under the age of eighteen years, in the juvenile court, in whose jurisdiction such person resides or in the case of a nonresident, in the Franklin county municipal court OR FRANKLIN COUNTY JUVENILE COURT. By filing an appeal the person is agreeing to pay the cost of the proceedings and is alleging that the person can show cause why the person's driving privileges should not be suspended ~~for a period of six months~~.

(L) Any person who has charged against the person more than five but not more than eleven points, for the purpose of obtaining a credit of two points against the total amount of points on the person's driving record, may enroll for one time only in a course of remedial driving instruction, as approved by the director of public safety. Such a credit, ~~subject to successful completion of an approved remedial driving course taken at a time when more than five but not more than eleven points are charged against the person,~~ shall be approved by the registrar. A PERSON COMPLETING A COURSE PURSUANT TO A JUDGE'S ORDER UNDER SECTION 4510.02 OF THE REVISED CODE SHALL NOT RECEIVE THE CREDIT.

(M) **Suspension Credit** When the driving privileges of any person are suspended by any trial judge of any court of record ~~pursuant to section 4507.16 of the Revised Code,~~ and points are charged against the person under this section for the offense which resulted in the suspension, that period of suspension shall be credited against the time of any subsequent suspension . . . [no further changes]

(N) **Hearing** [This division entitles the licensee to certain records and provides for a hearing. The third paragraph would be amended as follows.]

\* \* \*

In such proceedings, the registrar shall be represented by the prosecuting attorney of the county in which the CASE IS PENDING ~~person resides~~ if the petition is filed in the county court, except where the petitioner is a resident of a city or village within the jurisdiction of a county court in which case the city director of law or village solicitor shall represent the registrar. If the petition is filed in the municipal court, the registrar shall be represented as provided in section 1901.34 of the Revised Code.

[The rest of division (N) and division (O) would not change.]

### **§4510.031 RETURN OF DRIVING PRIVILEGES AFTER POINTS SUSPENSION**

[Was §4507.022] Any person whose driver's or commercial driver's license or permit is suspended, or who is ~~put on probation or granted limited or occupational driving privileges,~~ under section ~~4507.021 or division (E) of section 4507.16~~ 4510.03 of the Revised Code is not eligible to retain the ~~person's~~ license, or to have the ~~person's~~ license returned, until each of the following has occurred:

(A) The person successfully completes a course of remedial driving instruction approved by the director of public safety, ~~provided the person commences taking the course after the person's driver's or commercial driver's license or permit is suspended under section 4507.021 or division (E) of section 4507.16 of the Revised Code.~~ A minimum of twenty-five per cent of the number of hours of instruction included in the course shall be devoted to instruction on driver attitude.

The course also shall devote a number of hours to instruction in the area of alcohol and drugs and the operation of ~~motor~~ vehicles. . . . [no further changes except that "motor" should be stricken each time it appears].

(B) The person is examined in the manner provided for in section 4507.20 of the Revised Code, and found by the registrar of motor vehicles to be qualified to operate a ~~motor~~ vehicle;

(C) The person gives and maintains proof of financial responsibility, in accordance with section 4509.45 of the Revised Code.

#### **§4510.04 EMERGENCY DEFENSE**

[Was §4511.192(B) & §4507.02(E)] It is an affirmative defense to any prosecution brought pursuant to this ~~section~~ TITLE, TITLE XXIX OF THE REVISED CODE, OR A SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE that the alleged offender drove under suspension, WITHOUT A VALID PERMIT OR DRIVER'S OR COMMERCIAL DRIVER'S LICENSE, OR IN VIOLATION OF A RESTRICTION because of a substantial emergency, provided that no other person was reasonably available to drive in response to the emergency.

#### **§4510.05 SUSPENSION FOR VIOLATION OF SIMILAR MUNICIPAL ORDINANCE**

[Was §4507.1611] Except as ~~may~~ otherwise ~~be~~ provided in the Revised Code, whenever an offender is convicted of or pleads guilty to a violation of a municipal ordinance that is substantially similar to a provision of the Revised Code, and a court is permitted or required to suspend ~~or revoke~~ a person's driver's or commercial driver's license, ~~or permit,~~ OR PRIVILEGES for a violation of that provision, a court, in addition to any other penalties ~~it is~~ authorized by law ~~to impose upon the offender,~~ may suspend the offender's driver's or commercial driver's license, ~~or permit,~~ OR PRIVILEGES for the ~~period of~~ time the court determines appropriate, ~~or may revoke the license or permit,~~ but in no case shall the period of suspension imposed for the violation of the municipal ordinance exceed the period of ~~suspension~~ that is permitted or required to be imposed for the violation of the provision of the Revised Code to which the municipal ordinance is substantially similar.

#### **§4510.06 SUSPENSION FOR FEDERAL ASSIMILATIVE CRIMES**

[Was §4507.1610] If a United States district court whose jurisdiction lies within this state suspends, ~~revokes,~~ OR cancels, ~~or forfeits~~ the driver's or commercial driver's license, ~~or permit,~~ OR PRIVILEGES of any person pursuant to the "Assimilative Crimes Act," 102 Stat. 4381 (1988), 18 U.S.C.A. 13, as amended, that suspension, ~~revocation,~~ OR cancellation, ~~or forfeiture~~ is deemed to ~~operate in the same manner and to~~ have the same effect throughout this state as if it were imposed under the laws of this state ~~by a judge of a court of record of this state.~~ In such a case, . . . [no further changes].

#### **§4510.11 DRIVING UNDER SUSPENSION**

[Was §4507.02(D) & §4507.99(A) & (C)(5)]

(A) **Offense** [Was §4507.02(D)(1)] No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended ~~or revoked~~ under any provision of the Revised Code, other than Chapter 4509. of the Revised Code, or under any applicable law in any other jurisdiction in which the person's license or permit was issued, shall operate any motor vehicle OR MOTORCYCLE upon the highways or streets OR UPON ANY PUBLIC OR PRIVATE PROPERTY USED BY THE PUBLIC FOR PURPOSES OF VEHICULAR TRAVEL OR PARKING within this state during the period of suspension ~~or within one year after~~ UNLESS the ~~date of revocation.~~ No person who is granted occupational LIMITED driving privileges by the court shall operate any motor vehicle upon the highways or streets in this state ~~except~~ AND IS OPERATING in accordance with the terms of the privileges.

(B) [Was §4507.02(D)(2). Superseded by (A)] ~~No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under division (B) of section 4507.16 of the Revised Code shall operate any motor vehicle upon the highways or streets within this state during the period of suspension. No person who is granted occupational driving privileges by any court shall operate any motor vehicle or upon the highways or streets in this state except in accordance with the terms of those privileges.~~

## Penalties

(1) [Was §4507.99(A)] Whoever violates ~~division (B)(2) or (D)(1) of THIS section 4507.02 of the Revised Code~~ is guilty of driving under suspension or revocation or in violation of license restrictions, a misdemeanor of the first degree, SUBJECT TO A CLASS SIX SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. ~~Whoever violates division (C) of section 4507.02 of the Revised Code is guilty of driving without paying a license reinstatement fee, a misdemeanor of the first degree. Except as otherwise provided in division (D) of section 4507.162 of the Revised Code, the court, in addition to or independent of all other penalties provided by law, may suspend for a period not to exceed one year the driver's or commercial driver's license or permit or nonresident operating privilege of any person who pleads guilty to or is convicted of a violation of division (B)(2), (C), or (D)(1) of section 4507.02 of the Revised Code.~~

(2) IF THE OFFENDER WAS NOT PREVIOUSLY FOUND GUILTY OF A VIOLATION OF THIS SECTION OR OF A SUBSTANTIALLY SIMILAR MUNICIPAL ORDINANCE, THE COURT, IN ADDITION TO ANY OTHER SENTENCE THAT IT IMPOSES ON THE OFFENDER, SHALL ORDER THE IMMOBILIZATION OF THE OFFENDER'S VEHICLE, AND SHALL ORDER THE IMPOUNDMENT OF THE VEHICLE'S IDENTIFICATION LICENSE PLATES FOR THIRTY DAYS.

(3) IF THE OFFENDER HAS PREVIOUSLY BEEN FOUND GUILTY OF ONE VIOLATION OF THIS SECTION OR OF A SUBSTANTIALLY SIMILAR MUNICIPAL ORDINANCE, THE COURT, IN ADDITION TO ANY OTHER SENTENCE THAT IT IMPOSES ON THE OFFENDER, SHALL ORDER THE IMMOBILIZATION OF THE OFFENDER'S VEHICLE, AND SHALL ORDER THE IMPOUNDMENT OF THE VEHICLE'S IDENTIFICATION LICENSE PLATES FOR SIXTY DAYS.

(4) IF THE OFFENDER HAS PREVIOUSLY BEEN FOUND GUILTY OF TWO OR MORE VIOLATIONS OF THIS SECTION OR OF A SUBSTANTIALLY SIMILAR MUNICIPAL ORDINANCE, THE COURT, IN ADDITION TO ANY OTHER SENTENCE THAT IT IMPOSES ON THE OFFENDER SHALL ORDER THE CRIMINAL FORFEITURE OF THE OFFENDER'S VEHICLE TO THE STATE.

(5) [Was §4507.99(C)(5)] ANY ORDER FOR IMMOBILIZATION AND IMPOUNDMENT UNDER THIS SECTION SHALL BE ISSUED AND ENFORCED UNDER SECTION 4503.233 OF THE REVISED CODE. The court shall not release a vehicle from immobilization ordered under ~~division (C)(1) or (2) of this section~~ unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(6) ANY ORDER OF CRIMINAL FORFEITURE UNDER THIS SECTION SHALL BE ISSUED AND ENFORCED UNDER SECTION 4503.234 OF THE REVISED CODE. UPON RECEIPT OF THE COPY OF THE ORDER FROM THE COURT, NEITHER THE REGISTRAR NOR A DEPUTY REGISTRAR SHALL ACCEPT ANY APPLICATION FOR THE REGISTRATION OR TRANSFER OF REGISTRATION OF ANY MOTOR VEHICLE OWNED OR LEASED BY THE PERSON NAMED IN THE DECLARATION OF FORFEITURE. THE PERIOD OF DENIAL SHALL BE FIVE YEARS AFTER THE DATE OF THE ORDER, UNLESS, DURING THAT PERIOD, THE COURT HAVING JURISDICTION OF THE OFFENSE THAT LED TO THE ORDER TERMINATES THE FORFEITURE AND NOTIFIES THE REGISTRAR OF THE TERMINATION. THE REGISTRAR THEN SHALL TAKE NECESSARY MEASURES TO PERMIT THE PERSON TO REGISTER A VEHICLE OWNED OR LEASED BY THE PERSON OR TO TRANSFER REGISTRATION OF THE VEHICLE.

## §4510.12 DRIVING WITHOUT A VALID LICENSE

[Was §4507.02(A)(1)&(2) & part of §4507.99(D)]

(A)(4) **Offense** [Was §4507.02(A)(1)] No person, except those expressly exempted under sections 4507.03, 4507.04, and 4507.05 of the Revised Code, shall operate any motor vehicle

upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this state unless the person has a valid driver's license issued under ~~this chapter~~ CHAPTER 4507., or a commercial driver's license issued under Chapter 4506., of the Revised Code.

~~(2) No person shall permit the operation of a motor vehicle . . . [Repeal. Superseded by wrongful entrustment under new §4511.203]~~

**(B) Penalties** [Was part of §4507.99(D)] Whoever violates ~~division (A)(1) or (3) of THIS section 4507.02 of the Revised Code by~~ IS GUILTY OF operating a motor vehicle ~~when~~ WITHOUT A VALID LICENSE. THE PENALTY SHALL BE AS FOLLOWS:

~~(1) IF the offender's driver's or commercial driver's license has been~~ WAS expired for no more than six months, THE OFFENSE IS ~~guilty of~~ a minor misdemeanor.

~~(2) IF THE OFFENDER'S LICENSE WAS EXPIRED FOR MORE THAN SIX MONTHS, THE OFFENSE IS A MISDEMEANOR OF THE FOURTH DEGREE.~~

~~(3) IF THE OFFENDER WAS PREVIOUSLY FOUND GUILTY OF ONE VIOLATION OF THIS SECTION WITHIN THE PAST THREE YEARS, THE OFFENSE IS A MISDEMEANOR OF THE THIRD DEGREE.~~

~~(4) IF THE OFFENDER WAS PREVIOUSLY FOUND GUILTY OF TWO VIOLATIONS WITHIN THE PAST THREE YEARS, THE OFFENSE IS A MISDEMEANOR OF THE SECOND DEGREE.~~

~~(5) IF A PERSON WAS PREVIOUSLY FOUND GUILTY OF THREE OR MORE VIOLATIONS WITHIN THE PAST THREE YEARS, THE OFFENSE IS A MISDEMEANOR OF THE FIRST DEGREE.~~

~~(6) NO LICENSE SUSPENSION SHALL BE IMPOSED FOR A FIRST VIOLATION, OR IF MORE THAN THREE YEARS PASSED SINCE THE OFFENDER'S LAST VIOLATION, OF THIS SECTION. IF THE OFFENDER WAS FOUND GUILTY OF ONE OR MORE VIOLATIONS OF THIS SECTION WITHIN THE PAST THREE YEARS, AND IF THE OFFENDER'S LICENSE WAS EXPIRED FOR MORE THAN SIX MONTHS, THE COURT SHALL IMPOSE A CLASS SIX SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE.~~

### §4510.13 OVI SUSPENSIONS

[Was §4507.16(F) through (L)]

~~(A) "Hard" Suspension Periods~~ [Was §4507.16(I)] No judge shall suspend the first ~~thirty~~ FIFTEEN days of suspension of a driver's or commercial driver's license, permit, or operating privilege required under division ~~(A) (G)(1) of this section 4511.19 OF THE REVISED CODE,~~ no judge or mayor shall suspend the first ~~six months~~ THIRTY days of suspension required under division ~~(B)(4) (G)(2) of this THAT section,~~ no judge shall suspend the first year ONE HUNDRED EIGHTY DAYS of suspension required under division ~~(B)(2) (G)(3) of this THAT section,~~ AND no judge shall suspend the first year of suspension required under division ~~(B)(3) (A)(4) of this THAT section,~~ no judge shall suspend the first three years of suspension required under division ~~(B)(4) of this section,~~ and no judge or mayor shall suspend the revocation required by division (C) of this section, except that the court shall credit any period of suspension imposed pursuant to section 4511.196 of the Revised Code against any time of suspension imposed pursuant to division (B) of this section as described in division (E) of this section.

~~(F)(B) Driving Privileges~~ [Was §4507.16(F), through part of (F)(1)] If a person's ANY PERSON WHOSE driver's or commercial driver's license or permit or nonresident operating privilege has been suspended pursuant to ~~section 4511.194~~ 4511.19 of the Revised Code may file a petition FOR LIMITED DRIVING PRIVILEGES DURING THE SUSPENSION. The petition ~~of a person whose license, permit, or privilege was suspended~~ shall be filed in the court ~~specified in division (I)(4) of that section,~~ and the petition of a person whose license, permit, or privilege was suspended under division (B) or (C) of ~~section~~ shall be filed in the

~~municipal, county, mayor's or in the case of a minor, juvenile court that has jurisdiction over the place of arrest. Upon satisfactory proof THE judge of the court or mayor of the mayor's court may grant the person LIMITED driving privileges during the period during which the suspension otherwise would be imposed, except that, HOWEVER, the judge or mayor shall not grant THE privileges to any person who, within seven years of the filing of the petition, has been convicted of or pleaded guilty to three or more violations of . . . [OVI law, involuntary manslaughter under the influence, vehicular homicides and assault] . . . for employment as a driver of commercial motor vehicles to any person who is disqualified from operating a commercial motor vehicle under section 4506.16 of the Revised Code, and shall not grant occupational driving privileges or during any of the following periods of time: (1) The first fifteen days of suspension imposed upon an offender whose license, permit, or privilege is suspended pursuant to division (B)(1) of this section or division (C)(1) of section 4511.191 of the Revised Code. On or after the sixteenth day of suspension imposed upon~~ PROSCRIBED BY DIVISION (A) OF THIS SECTION.

~~(C)~~ **Immobilizing or Disabling Devices** [Was part of §4507.16(F)(1) on] IN GRANTING LIMITED DRIVING PRIVILEGES TO an offender whose license, permit, or privilege is suspended pursuant to ~~division (B)(1) of this section or section or division (F)(G)(1), (2), (3), (4), OR (5) of section 4511.191~~ 4511.19 of the Revised Code, the court may ~~grant the offender occupational driving privileges, but the court may provide that the offender shall not exercise the driving privileges unless the vehicles~~ REQUIRE THAT ANY VEHICLE the offender operates are BE equipped with AN IMMOBILIZING OR DISABLING DEVICE.

~~(2)~~ — The first thirty days of suspension imposed upon an offender whose license, permit, or privilege is suspended pursuant to ~~division (B)(2) of this section or division (C)(2) of section 4511.191 of the Revised Code. On or after the thirty-first day of suspension, the court may grant the offender but the court may provide that the offender shall not exercise the privileges unless the vehicles the offender operates are equipped with~~ [Similarly, divisions (F)(2),(3),(4) would be repealed as unnecessary.]

~~(G)~~ [Was §4507.16(G). This division, containing a suspension for drunken driving homicides, manslaughters, and assaults, would be repealed. It is covered by changes in those laws.]

~~(H)(D)~~(1) **License to Registrar** [Was §4507.16(H)(1)] After a driver's or commercial driver's license or permit or nonresident operating privilege has been suspended ~~or revoked~~ pursuant to ~~this section~~ 4511.19 OF THE REVISED CODE, the judge of the court or mayor of the mayor's court that suspended the license, permit, or privilege shall cause the offender to deliver to the court the license or permit. The judge, mayor, or clerk of the court or mayor's court, if the license or permit has been suspended, shall forthwith forward to the registrar the license or permit together with notice of the action of the court. [§4507.16(H)(2) re concurrent CDL suspensions would move but not otherwise change.]

~~(J)(E)~~ **Credit for Administrative Suspension Time** [Was §4507.16(J)] The judge of the court or mayor of the mayor's court shall credit any time during which an offender was subject to an administrative suspension of ~~his~~ THE PERSON'S driver's or commercial driver's license or permit or nonresident operating privileges imposed pursuant to ~~division (B) or (C) of section 4511.191 OR 4511.192~~ of the Revised Code or a suspension imposed by a judge, referee, or mayor pursuant to division (B)(1) or (2) of section 4511.196 of the Revised Code against the time to be served under a related suspension imposed pursuant to this section.

~~(K)(F)~~ **Notice to Registrar** [Was §4507.16(K)] The judge or mayor shall notify the bureau of motor vehicles of any determinations made, ~~and of any suspensions imposed,~~ pursuant to ~~division (B)(A) of this section.~~

~~(L)(G)~~ **Immobilizing or Disabling Device Orders** [Was §4507.16(L)]

(1) If a court issues an IMMOBILIZING OR DISABLING DEVICE order under ~~division (F) of this section 4510.43~~ OF THE REVISED CODE, the order shall authorize the offender during the specified period to operate a motor vehicle only if it is equipped with SUCH a ~~certified ignition interlock~~ device. The court shall provide the offender with a copy of an IMMOBILIZING OR DISABLING DEVICE order issued under ~~division (F) of this section 4510.43~~ OF THE REVISED CODE, and the copy of the order shall be used by the offender in lieu of an Ohio driver's or commercial driver's license or permit until the registrar of motor vehicles or a deputy registrar issues the offender a restricted license.

An order issued under ~~division (F) of this section 4510.43~~ OF THE REVISED CODE does not authorize or permit the offender to whom it has been issued to operate a vehicle during any time that the offender's driver's or commercial driver's license or permit is suspended under any other provision of law.

(2) The offender may present the IMMOBILIZING OR DISABLING DEVICE order to the registrar or to a deputy registrar. Upon presentation of the order to the registrar or a deputy registrar, the registrar or deputy registrar shall issue the offender a restricted license. A restricted license issued under this division shall be identical to an Ohio driver's license, except that it shall have printed on its face a statement that the offender is prohibited during the period specified in the court order from operating any motor vehicle that is not equipped with a IMMOBILIZING OR DISABLING device, and except that the date of commencement and the date of termination of the period shall be indicated conspicuously upon the face of the license.

(3) As used in this section, "IMMOBILIZING OR DISABLING DEVICE" has the same meaning as in section ~~4544.83~~ 4510.43 of the Revised Code.

## §4510.14 DRIVING UNDER OVI SUSPENSION

[Was §§4507.02(D)(2) & 4507.99(B). This also allows repeal of §4507.361.]

(A) **Offense** [Was §4507.02(D)(2)] No person, whose driver's or commercial driver's license, or permit, or nonresident operating privilege has been suspended under ~~division (B) of section 4507.16~~ 4511.19 OR 4511.191 of the Revised Code, shall operate any motor vehicle upon the highways or streets within this state during the period of suspension. ~~No person who is granted occupational driving privileges by any court shall operate any motor vehicle upon the highways or streets in this state except in accordance with the terms of those privileges.~~

(B) **Penalties** [Was §4507.99(B)] Whoever violates ~~division (D)(2) of THIS section 4507.02 of the Revised Code~~ is guilty of driving under ~~OMV~~ OVI suspension or revocation and shall be punished as provided in ~~division (B)(1), (2), or (3) and divisions (B)(4) to (8) of CHAPTER 2929. OF THE REVISED CODE, SUBJECT TO A LONGER DURATION OR HIGHER AMOUNT REQUIRED BY this section.~~

(1) **"First" Offense** [Was §4507.99(B)(1)] ~~Except as otherwise provided in division (B)(2) or (3) of this section,~~ IF, WITHIN SIX YEARS OF THE OFFENSE, THE OFFENDER WAS NOT PREVIOUSLY FOUND GUILTY OF A VIOLATION OF THIS SECTION OR OF AN EQUIVALENT OFFENSE, driving under ~~OMV~~ OVI suspension or ~~revocation~~ is a misdemeanor of the first degree, ~~and the~~ THE court shall sentence the offender to a ALL OF THE FOLLOWING:

(a) A ~~term of imprisonment~~ MANDATORY JAIL TERM of ~~not less than three consecutive days and may sentence the offender pursuant to section 2929.21 of the Revised Code to a longer term of imprisonment.~~ As an alternative to the term of imprisonment required to be imposed by this division THE THREE DAY TERM SHALL BE IMPOSED UNLESS, but subject to division ~~(B)(6)~~ (C) of this section, the court ~~may sentence the offender to a term~~ INSTEAD IMPOSES A SENTENCE of not less than thirty consecutive days of

electronically monitored house arrest as defined in division (A)(4) of section 2929.23 of the Revised Code. The period of electronically monitored house arrest shall not exceed six months;

(b) ~~In addition, the court shall impose upon the offender a~~ A fine of not less than two-hundred fifty and not more than one thousand dollars;

(c) A LICENSE SUSPENSION UNDER DIVISION (E) OF THIS SECTION;

(d) ~~Regardless of whether~~ IF the vehicle the offender was operating at the time of the offense is registered in his THE OFFENDER'S name ~~or in the name of another, the court, in addition to or independent of any other sentence that it imposes upon the offender and subject to section 4503.235 of the Revised Code, shall order the immobilization~~ IMMOBILIZATION for thirty days of the OFFENDER'S vehicle ~~the offender was operating at the time of the offenses~~ and the impoundment for thirty days of the identification license plates of that vehicle. The order for immobilization and impoundment shall be issued and enforced in accordance with section 4503.23 of the Revised Code.

(2) **“Second” Offense** If, within ~~five~~ SIX years of the offense, the offender PREVIOUSLY has been ~~convicted of or pleaded~~ FOUND guilty ~~to~~ OF one violation of division (D)(2) of THIS section 4507.02 of the Revised Code or OF AN municipal ordinance that is substantially equivalent OFFENSE to that division, driving under ~~OMV~~ OVI suspension or revocation is a misdemeanor OF THE FIRST DEGREE, ~~and the~~ THE court shall sentence the offender to a ALL OF THE FOLLOWING:

(a) A MANDATORY JAIL term of imprisonment ~~of not less than ten consecutive days and~~ NOTWITHSTANDING SECTION 2929.26 OF THE REVISED CODE [the proposed jail term statute], THE COURT may sentence the offender to a longer definite JAIL term of imprisonment of not more than one year. THE TEN DAY TERM SHALL BE IMPOSED UNLESS ~~As an alternative to the term of imprisonment required to be imposed by this division, but~~ subject to division (B)(6) (C) of this section, the court may sentence the offender to a term INSTEAD IMPOSES A SENTENCE of not less than ninety consecutive days of electronically monitored house arrest as defined in division (A)(4) of section 2929.23 of the Revised Code. The period of electronically monitored house arrest shall not exceed one year;

(b) NOTWITHSTANDING SECTION 2929.28 OF THE REVISED CODE, A ~~In addition, the court shall impose upon the offender a~~ fine of not less than five hundred and not more than two thousand five hundred dollars;

(c) A LICENSE SUSPENSION UNDER DIVISION (E) OF THIS SECTION;

(d) ~~Regardless of whether~~ IF the vehicle the offender was operating at the time of the offense is registered in his THE OFFENDER'S name ~~or in the name of another, the court, in addition to or independent of any other sentence that it imposes upon the offender and subject to section 4503.235 of the Revised Code, shall order the immobilization~~ sixty days of the OFFENDER'S vehicle FOR SIXTY DAYS ~~the offender was operating at the time of the offenses~~ and the impoundment for thirty days of the identification license plates of that vehicle. The order for immobilization and impoundment shall be issued and enforced in accordance with section 4503.23 of the Revised Code.

(3) **“Third” and Subsequent Offenses** If, within ~~five~~ SIX years of the offense, the offender PREVIOUSLY has been ~~convicted of or pleaded~~ FOUND guilty ~~to~~ OF two or more violations of division (D)(2) of THIS section 4507.02 of the Revised Code or OF AN municipal ordinance that is substantially equivalent OFFENSE to that division, driving under ~~OMV~~ OVI suspension or revocation is a misdemeanor, ~~and the~~ THE court shall sentence the offender to a ALL OF THE FOLLOWING:

(a) A MANDATORY JAIL term of imprisonment ~~of not less than thirty consecutive days and~~ NOTWITHSTANDING SECTION 2929.26 OF THE REVISED CODE, THE COURT may sentence the offender to a longer definite JAIL term of imprisonment of not more than one year. The court shall not

sentence the offender to a term of electronically monitored house arrest as defined in division (A)(4) of section 2929.23 of the Revised Code IN LIEU OF THE MANDATORY PORTION OF THE JAIL TERM;

(b) NOTWITHSTANDING SECTION 2929.28 OF THE REVISED CODE, A ~~In addition, the court shall impose upon the offender a fine of not less than five hundred and not more than two thousand five hundred dollars;~~

(c) A LICENSE SUSPENSION UNDER DIVISION (E) OF THIS SECTION;

(d) ~~Regardless of whether~~ IF the vehicle the offender was operating at the time of the offense is registered in his THE OFFENDER'S name ~~or in the name of another, the court, in addition to or independent of any other sentence that it imposes upon the offender and subject to section 4503.235 of the Revised Code, shall order the criminal~~ CRIMINAL forfeiture to the state of the OFFENDER'S vehicle ~~the offender was operating at the time of the offenses.~~ The order of criminal forfeiture shall be enforced in accordance with section 4503.234 of the Revised Code.

If title to a motor vehicle that is subject to an order for criminal forfeiture under this section is assigned or transferred and division (C)(2) or (3) of section 4503.24 of the Revised Code 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 publication of the national auto dealer's association. The proceeds from any fine under this division shall be distributed in accordance with division (D)(4) of section 4503.234 of the Revised Code.

(C) **Electronically Monitored House Arrest Option** [Was §4507.99(B)(6)] No court shall impose the alternative ~~sentencing of not less than thirty consecutive days~~ SENTENCE of electronically monitored house arrest ~~permitted to be imposed by~~ UNDER division (B)(1) of this section ~~or the alternative sentence of not less than ninety consecutive days of electronically monitored house arrest permitted to be imposed by~~ division OR (B)(2) of this section, unless, within sixty days of the date of sentencing, the court issues a written finding, ~~entered into~~ ON the record, that, due to the unavailability of space at the ~~incarceration facility~~ JAIL where the offender is required to serve the term of imprisonment ~~imposed upon the offender,~~ the offender will not be able to begin serving the term of imprisonment within the sixty-day period following the date of sentencing. ~~If the court issues such a finding, the court may impose the alternative sentence comprised of or including electronically monitored house arrest permitted to be imposed by division (B)(1) or (2) of this section.~~ AS USED IN THIS SECTION, "ELECTRONICALLY MONITORED HOUSE ARREST" HAS THE SAME MEANING AS IN DIVISION (A) OF SECTION 2929.23 OF THE REVISED CODE [This cross-reference will have to change if 2929.23 is renumbered].

[Was §4507.99(B)(7)] An offender sentenced under this section to a period of electronically monitored house arrest shall be permitted work release during such period. ~~The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and the offender's home or other place specified by the sentencing court and the time actually spent under employment.~~

(D) **Fine Distribution** [Was §4507.99(B)(5)] Fifty percent of any fine imposed by the court under division (B)(1), (2), or (3) of this section shall be deposited into the county indigent driver's alcohol treatment fund or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation pursuant to division (N) (K) of section 4511.191 of the Revised Code.

(E) **Suspensions** [Was §4507.99(B)(4)] In addition to or independent of all other penalties provided by law or ordinance, the trial judge of any court of record or the mayor of a mayor's court shall ~~suspend for the period not to exceed one year~~ IMPOSE A CLASS SIX SUSPENSION, UNDER SECTION 4510.02 OF THE REVISED CODE, OF the driver's or

commercial driver's license, or permit, or nonresident operating privilege of an offender who is sentenced under division (B)(1), (2), or (3) of this section.

**Driving Privileges; Special Plates** IF GRANTED BY THE COURT, LIMITED DRIVING PRIVILEGES DURING A SUSPENSION IMPOSED UNDER THIS SECTION. SHALL BE GRANTED ON THE ADDITIONAL CONDITION THAT THE OFFENDER MUST DISPLAY RESTRICTED LICENSE PLATES, ISSUED UNDER SECTION 4503.231 OF THE REVISED CODE, ON THE VEHICLE DRIVEN SUBJECT TO THE PRIVILEGES.

[Was §4507.99(B)(8)] Suspension of a commercial driver's license under this section shall be concurrent with any period of disqualification under section 4506.16 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under ~~this chapter~~ CHAPTER 4507. during the period for which the commercial driver's license was suspended under this section, ~~and no~~ NO person whose commercial driver's license is suspended under this section shall be issued a driver's license under ~~this chapter~~ CHAPTER 4507. during the period of the suspension.

(E) **"Equivalent Offense" Defined** AS USED IN THIS SECTION, "EQUIVALENT OFFENSE" MEANS ANY OF THE FOLLOWING:

- (1) A VIOLATION OF A SUBSTANTIALLY EQUIVALENT FORMER VERSION OF THIS SECTION;
- (2) A VIOLATION OF A MUNICIPAL ORDINANCE, LAW OF ANOTHER STATE, OR FEDERAL LAW THAT IS SUBSTANTIALLY EQUIVALENT TO THIS SECTION.

#### **§4510.15 SUSPENSION FOR RECKLESS OPERATION**

[Was §4507.34] Whenever a person is found guilty OF RECKLESS OPERATION OF A MOTOR VEHICLE under the laws of this state or under any ordinance of any political subdivision of this state, ~~of operating a motor vehicle in violation of such laws or ordinance, relating to reckless operation,~~ the trial court of any court of record, may in addition to or independent of all other penalties provided by law, ~~suspend the driver's or commercial license of any person convicted or plead guilty to such offenses.~~ IMPOSE A CLASS FOUR SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. [The rest of the section, dealing with commercial driver's license suspensions, would not change.]

#### **§4510.16 DRIVING UNDER FINANCIAL RESPONSIBILITY SUSPENSION**

[Was §§4507.02(B)(1) & 4507.99(C)]

~~(B)(4)(A)~~ **Offense** [Was §4507.02(B)(1)] No person who driver's or commercial driver's license or permit or nonresident's operating privilege has been suspended or ~~revoked~~ CANCELED pursuant to Chapter 4509. of the Revised Code, shall operate any motor vehicle within this state, or knowingly permit any motor vehicle owned by ~~him~~ THE PERSON to be operated by another person in this state, during the period of suspension or CANCELLATION, except as specifically authorized by Chapter 4509. of the Revised Code. No person shall operate a motor vehicle in this state, or knowingly permit any motor vehicle owned by ~~him~~ THE PERSON to be operated by another person in the state, during the period in which ~~he~~ THE PERSON is required by section 4509.45 of the Revised Code to file and maintain proof of financial responsibility for a violation of section 4509.101 of the Revised Code, unless proof of financial responsibility is maintained with respect to that vehicle.

~~(C)(B)~~ **Penalties** [Was §4507.99(C)]

- (1) Whoever violates ~~division (B)(1) of section 4507.02 of the Revised Code~~ THIS SECTION is guilty of driving under financial responsibility law suspension or ~~revocation~~ and shall be punished as provided in ~~division (C)(1), (2), or (3) and division (C)(4) of this~~

~~section. CANCELLATION, (1) Except as otherwise provided in division (C)(2) or (3) of this section, driving under financial responsibility law suspension or revocation is a misdemeanor of the first degree. A CLASS E SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE SHALL BE IMPOSED.~~

~~(2) IF THE OFFENDER HAS NOT PREVIOUSLY BEEN FOUND GUILTY OF A VIOLATION OF THIS SECTION OR A SUBSTANTIALLY SIMILAR MUNICIPAL ORDINANCE Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the court, in addition to or independent of any other sentence that it imposes upon the offender and subject to section 4503.325 of the Revised Code, shall order the immobilization for thirty days of the OFFENDER'S vehicle the offender was operating at the time of the offense and the impoundment for thirty days of the identification license plates of that vehicle. The order for immobilization and impoundment shall be issued and enforced in accordance with section 4503.233 of the Revised Code.~~

~~(2)(3) If, within five years of the offense, the offender has been convicted of or pleaded FOUND guilty to OF one violation of division (B)(1) of THIS section 4507.02 of the Revised Code or a SUBSTANTIALLY EQUIVALENT municipal ordinance that is substantially equivalent to that division, driving under financial responsibility law suspension or revocation is a misdemeanor of the first degree. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in his or her name or in the name of another person, the court, in addition to or independent of any other sentence that it imposes upon the offender and subject to section 4503.235 of the Revised Code, shall order the immobilization for sixty days of the OFFENDER'S vehicle the offender was operating at the time of the offense and impoundment for sixty days of the identification license plates of that vehicle. The order for immobilization and impoundment shall be issued and enforced in accordance with section 4503.233 of the Revised Code.~~

~~(3)(4) If, within five years of the offense, the offender has been convicted of or pleaded FOUND guilty to OF two or more violations of division (B)(1) of THIS section 4507.02 of the Revised Code or a SUBSTANTIALLY SIMILAR municipal ordinance that is substantially equivalent to that division, driving under financial responsibility law suspension or revocation is a misdemeanor of the first degree. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in his or her name or in the name of another person, the court, in addition to or independent of any other sentence that it imposes upon the offender and subject to section 4503.235 of the Revised Code, shall order the criminal forfeiture to the state of the OFFENDER'S vehicle the offender was operating at the time of the offense. The order of criminal forfeiture shall be issued and enforced in accordance with section 4503.234 of the Revised Code.~~

~~(4)(5) Except as otherwise provided in division (D) of section 4507.162 of the Revised Code, the court, in addition to or independent of all other penalties imposed by law may suspend for a period not to exceed one year the driver's or commercial driver's license or permit or nonresident operating privilege of an offender who is sentenced under division (C)(1), (2), or (3) of this section. ANY ORDER FOR IMMOBILIZATION AND IMPOUNDMENT UNDER THIS SECTION SHALL BE ISSUED AND ENFORCED IN ACCORDANCE WITH SECTION 4503.233 OF THE REVISED CODE. ANY ORDER OF CRIMINAL FORFEITURE SHALL BE ISSUED AND ENFORCED IN ACCORDANCE WITH SECTION 4503.234 OF THE REVISED CODE. (6) The court shall not release a vehicle from immobilization ordered under division (B)(2) or (3) of this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.~~

## **§4510.17 SUSPENSION FOR DRUG OFFENSES**

[Was §4507.169]

(A) ~~The registrar of motor vehicles shall suspend for six months the driver's or commercial driver's license or permit of, or deny for six months the issuance of a driver's or commercial driver's license or permit to, IMPOSE A CLASS D SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE ON any person who is a resident of this state and is convicted of or pleads guilty to a violation of a statute of any other state or any federal statute that is substantially similar to section 2925.01, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised Code. . . . [Ensuing sentences would not change, except "or denial" should be stricken.]~~

\* \* \*

~~If the person is a resident of this state who does not have a current, valid Ohio driver's or commercial driver's license, the notice shall inform the person that the person will be denied issuance of a driver's or commercial driver's license or permit for six months beginning on the date of the notice.~~

THE SUSPENSION THAT THE REGISTRAR MUST IMPOSE UNDER THIS SECTION SHALL END EITHER ON THE LAST DAY OF THE CLASS D SUSPENSION, OR OF THE SUSPENSION OF NONRESIDENT DRIVING PRIVILEGES BY A STATE OR FEDERAL COURT, WHICHEVER IS EARLIER.

[The rest of the section would track division (A)]

## **§4510.21 FAILURE TO REINSTATE LICENSE AFTER A SUSPENSION ENDS**

[Was §4507.02(C) & part of §4507.99(A)]

(A) **Prohibition** [Was §4507.02(C)] ~~No person, whose driver's LICENSE or, commercial driver's license or, permit, OR NONRESIDENT'S OPERATING PRIVILEGE has been suspended pursuant to section 4511.191, section 4511.196, or division (B) of section 4507.16 of the Revised Code, shall operate any motor vehicle within this state until he has paid the UPON A HIGHWAY OR ANY PUBLIC OR PRIVATE PROPERTY AFTER THE SUSPENSION HAS EXPIRED, UNLESS THE PERSON HAS COMPLIED WITH ALL license reinstatement fee required pursuant to division (L) of section 4511.191 REQUIREMENTS IMPOSED BY THE COURT, THE BUREAU OF MOTOR VEHICLES, OR ANOTHER PROVISION of the Revised Code and the license or permit has been returned to the person or a new license or permit has been issued to the person.~~

(B) **Penalty** [Was 2<sup>nd</sup> sentence of §4507.99(A)] ~~Whoever violates division (C) of THIS section 4507.02 of the Revised Code is guilty of driving without paying a license reinstatement fee FAILURE TO REINSTATE A LICENSE, a misdemeanor of the first THIRD degree. NO SUSPENSION SHALL BE IMPOSED FOR A VIOLATION OF THIS SECTION.~~

## **§4510.22 SUSPENSION FOR FAILURE TO APPEAR OR PAY A FINE**

[Was §4507.168]

(A) **Court's Duties** ~~If a person who has a current valid Ohio driver's or commercial driver's license OR PERMIT is charged with a violation of any provision in sections 4511.01 to 4511.76, section 4511.84, any provision in sections 4513.01 to 4513.65, or any provision in sections 4549.01 to 4549.65 of the Revised Code that is classified as a misdemeanor of the first, second, third, or fourth degree or with a violation of any SUBSTANTIALLY EQUIVALENT municipal ordinance that is substantially comparable to any provision of any of these sections and if the person either fails to appear in court at the required time and place to answer the charge or pleads guilty to or is found guilty of the violation and fails within the time allowed by the court to pay the fine imposed by the court, the court shall declare the forfeiture SUSPENSION of the person's license. Thirty days after the declaration of forfeiture, the court~~

shall inform the registrar of motor vehicles of the ~~forfeiture~~ DECLARATION by entering information relative to the ~~forfeiture~~ DECLARATION on a form approved and furnished by the registrar and sending the form to the registrar. The court also shall forward the person's license, if it is in the possession of the court, to the registrar.

**Suspension** The registrar shall ~~suspend~~ IMPOSE A CLASS E SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE ~~the person's driver's or commercial driver's license~~, send written notification to the person of the suspension at the person's last known address and, if the person is in possession of the license, order the person to surrender the ~~driver's or commercial driver's~~ license to the registrar within forty-eight hours.

**If the Suspension is Terminated** No valid driver's or commercial driver's license shall be granted to the person after the suspension, unless the court having jurisdiction of the offense that led to the suspension orders that the ~~forfeiture~~ SUSPENSION be terminated. The court shall ~~so~~ order THE TERMINATION if the person, ~~after having failed to appear in court at the required time and place to answer the charge or after having pleaded guilty to or been found guilty of the violation and having failed within the time allowed by the court to pay the fine imposed by the court,~~ thereafter appears to answer the charge and pays any fine imposed by the court or pays the fine originally imposed by the court. The court shall inform the registrar of the termination of the ~~forfeiture~~ SUSPENSION by entering information relative to the termination on a form approved and furnished by the registrar and sending the form to the registrar. ~~The court also shall charge and collect from the person~~ SHALL PAY TO THE BUREAU OF MOTOR VEHICLES a fifteen dollar processing fee, to cover the costs of the bureau of motor vehicles in administering this section. ~~The clerk of the court shall transmit monthly all such processing fees to the registrar,~~ for deposit into the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(B) **The Registrar's Additional Duties** In addition to suspending the driver's or commercial driver's license OR PERMIT of the person named in the declaration of ~~forfeiture~~ SUSPENSION, the registrar, upon receipt from the court of the copy of the declaration of ~~forfeiture~~, shall take any measures that may be necessary to ensure that neither the registrar nor any deputy registrar accepts any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of ~~forfeiture~~. The period of denial of registration or transfer shall continue until such time as the court having jurisdiction of the offense that led to the suspension of ~~the person's driver's or commercial driver's license~~ orders the ~~forfeiture~~ SUSPENSION to be terminated. Upon receipt by the registrar of an order terminating the ~~forfeiture~~ SUSPENSION, the registrar also shall take any measures that may be necessary to permit the person to register a motor vehicle owned or leased by the person or to transfer the registration of such motor vehicle, if the person later makes an application to take such action and otherwise is eligible to register the motor vehicle or to transfer its registration.

The registrar shall not be required to give effect to any declaration of ~~forfeiture~~ SUSPENSION or order terminating a ~~forfeiture~~ SUSPENSION provided by a court under this section unless the information contained in the declaration or order is transmitted to the registrar by means of an electronic transfer system.

(C) The period of denial relating to the issuance or transfer of a certificate of registration for a motor vehicle imposed pursuant to THIS division ~~(B) of this section~~ remains in effect until the person pays the fine imposed by the court relative to the offense.

## **§4510.23 SUSPENSION FOR INCOMPETENCE**

[Was §4507.161]

When any person having a driver's or commercial driver's license is adjudicated incompetent for the purpose of holding a license, as provided in section 5122.301 of the Revised Code, the probate judge shall order the license of such person delivered to the court. The court shall forward such license with notice of such adjudication to the registrar of motor vehicles. The

~~registrar of motor vehicles shall suspend such license~~ IMPOSE A CLASS E SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. THE SUSPENSION SHALL REMAIN IN EFFECT UNTIL THE receipt of written notice by the head of the hospital, or other agency which has or had custody of such person, that such person's mental illness is not an impairment . . . [no further changes]. [The M-1 penalty for violating this section should be eliminated (current §4507.99).]

### **§4510.31 JUVENILE "SIX POINT" SUSPENSIONS**

[Was §4507.162]

(A) **Notice & Suspension** ~~Except as provided in division (C) of this section, WHEN the registrar of motor vehicles shall suspend the~~ DETERMINES THAT ANY PERSON WITH A probationary driver's license ~~or restricted license issued to any person, when the person, before reaching his eighteenth birthday, has been convicted of, pleaded guilty to, or been adjudicated in a juvenile court of having committed any of the following:~~ IS CHARGED WITH A TOTAL OF SIX OR MORE POINTS WITHIN A TWO YEAR PERIOD FROM THE DATE OF FIRST CONVICTION, THE REGISTRAR SHALL SEND WRITTEN NOTICE TO THE PERSON, AT THE PERSON'S LAST KNOWN ADDRESS. THE NOTICE SHALL INFORM THE PERSON THAT THE PERSON'S PROBATIONARY LICENSE IS SUBJECT TO A CLASS C SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE, EFFECTIVE ON THE TWENTIETH DAY AFTER THE NOTICE IS MAILED, UNLESS THE PERSON FILES A PETITION IN THE MUNICIPAL OR COUNTY COURT, OR, IF THE PERSON IS UNDER EIGHTEEN YEARS OF AGE, IN THE JUVENILE COURT, OF THE PLACE IN WHICH THE PERSON RESIDES. IN SUCH A PETITION, THE PERSON SHALL AGREE TO PAY THE COSTS OF PROCEEDINGS AND ALLEGE THAT THE PERSON CAN SHOW WHY THE SUSPENSION SHOULD NOT BE IMPOSED.

IF THE PERSON IS CONVICTED OF, OR FORFEITS BOND FOR, TWO OR MORE OFFENSES ARISING OUT OF THE SAME FACTS, AND POINTS ARE CHARGEABLE FOR EACH OFFENSE, POINTS SHALL BE CHARGED ONLY FOR THE CONVICTION OR BOND FORFEITURE FOR WHICH THE GREATER NUMBER OF POINTS IS CHARGEABLE. IF THE POINTS CHARGEABLE FOR EACH OFFENSE ARE EQUAL, POINTS SHALL BE CHARGED FOR ONLY ONE OFFENSE.

[Repeal the remainder of existing 4507.162(A). (B) covers suspensions for drug offenses and remains unchanged.]

(C) **Driving Privileges** ~~If WHENEVER a person is convicted of, pleads guilty to, or is adjudicated in juvenile court of having committed a third violation of sections 4511.12, 4511.13, 4511.15, 4511.20 to 4511.23, 4511.25, 4511.26 to 4511.48, 4511.57, to 4511.65, or 4511.75 of the Revised Code or any similar municipal ordinances within a two year period, and the person, within the preceding seven years, has been convicted of, pleaded guilty to, or adjudicated in a juvenile court of having committed three or more violations of division (A) or (B) of section 4511.19 of the Revised Code, 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, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the person was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the person was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, the person is not entitled to request, and the court shall not grant to the person, occupational driving privileges under this division. For any other person who is convicted of, pleads guilty to, or is adjudicated in juvenile court of having committed a third violation of sections 4511.12, 4511.13, 4511.15, 4511.20 to 4511.23, 4511.25, 4511.26 to 4511.48, 4511.57 to 4511.65, or 4511.75 of the Revised Code or any similar municipal ordinances HAS RECEIVED SIX OR MORE POINTS within a two-year period, the court in which the third conviction, finding, plea, or adjudication was made, upon~~

~~petition of the person, may grant the person occupational LIMITED driving privileges if the court finds that the person will reach his THE PERSON'S eighteenth birthday before the period of suspension required to be imposed under division (A)(1) of this section expires and further finds reasonable cause to believe that the suspension, if continued beyond the person's eighteenth birthday, will seriously affect the person's ability to continue in his THE PERSON'S employment, EDUCATION, VOCATIONAL TRAINING, OR TREATMENT. The occupational driving privileges granted under this division shall be effective on the person's eighteenth birthday and during the period following such birthday for which the suspension would otherwise be imposed. A court shall not grant occupational driving privileges to any person who, within seven years of the filing of the petition, has been convicted of, pleaded guilty to, or adjudicated in juvenile court of having committed three or more violations of division (A) or (B) of section 4511.19 of the Revised Code, 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, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the person was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the person was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse. In granting occupational driving privileges, the court shall specify the times and places at which the person may drive and may impose any other conditions upon the person's use of a motor vehicle that the court considers reasonable and necessary.~~

[No further changes in the division, except to strike "occupational" and insert "limited" privileges]

(D) **Suspension of Privileges** If a person who has been granted ~~occupational LIMITED~~ driving privileges under division ~~(C)~~ (B) of this section is convicted of, ~~or pleads no contest to and is found guilty of, or pleads guilty to,~~ or is adjudicated in juvenile court of having committed, a violation of ~~section 4507.02~~ CHAPTER 4510. OR SECTIONS 4511.01 TO 4511.76, 4513.01 TO 4513.65, OR 4549.01 TO 4549.65 of the Revised Code ~~listed in division (A)(1) of this section~~ or any similar municipal ordinance during the period for which ~~he~~ THE PERSON was granted ~~occupational driving~~ THE privileges, the court that granted the ~~driving~~ privileges shall ~~revoke them and cancel~~ SUSPEND the person's permit card. The court or the clerk of the court immediately shall forward the person's probationary driver's license or restricted license together with written notification of the court's action to the registrar. Upon receipt of the license and notification, the registrar shall ~~suspend the person's probationary driver's license or restricted license for a period of one year~~ IMPOSE A CLASS C SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. The registrar shall retain the license during the period of suspension, and no further ~~occupational LIMITED~~ driving privileges shall be granted during that period.

[Division (E) would not change.]

## **§4510.32 SUSPENSION FOR FAILURE TO ATTEND SCHOOL**

[Was §4507.061]

(A) **Records** The registrar of motor vehicles shall record within ten days of receipt and keep at the main office of the bureau of motor vehicles all information provided to ~~him~~ THE REGISTRAR by the superintendent of a school district in accordance with division (B) of section 3321.13 of the Revised Code [i.e., a report that a student improperly dropped out of school].

(B) **Suspension** Whenever the registrar receives notice under division (B) of section 3321.13 of the Revised Code, ~~he~~ THE REGISTRAR shall ~~suspend the temporary instruction permit or driver's license of~~ IMPOSE A CLASS F SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE UPON the person who is the subject of the notice or, if the person has not been issued ~~such~~ a TEMPORARY INSTRUCTION permit or DRIVER'S license, the registrar

shall deny to the person the issuance of ~~a temporary instruction~~ THE permit or driver's license. .  
[No further changes].

[Divisions (C), (E), & (F) would remain the same, except the language of (C) & (E) should be gender neutral.]

(D) **Status of License or Permit** Any person whose permit or license is suspended under this section shall mail or deliver THE permit or license to the registrar of motor vehicles within twenty days of notification of the suspension; however, the person's permit or license and driving privileges shall be suspended immediately upon receipt of the notification. The registrar may retain the permit or license during the period of suspension or ~~he~~ THE REGISTRAR may destroy it under section 4507.54 of the Revised Code. ~~Any such suspension of a person's permit or license under this section shall remain in effect until the person attains eighteen years of age or until it is terminated prior to the child's attainment of that age pursuant to division (F) of this section.~~  
\* \* \*

### **§4510.33 USE OF LICENSE TO VIOLATE LIQUOR LAWS**

[Was §4507.163]

(A) ~~Any~~ NO person of insufficient age to purchase intoxicating liquor or beer ~~who~~ SHALL, contrary to division (A) or (C) of section 4507.30 of the Revised Code, ~~displays~~ DISPLAY<sub>1</sub> as proof that ~~he~~ THE PERSON is of sufficient age to purchase intoxicating liquor or beer, a driver's or commercial driver's license, knowing the same to be fictitious, altered, or not ~~his~~ THE PERSON'S own<sub>1</sub>, ~~shall~~ THE REGISTRAR SHALL IMPOSE A CLASS C SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE UPON THE OFFENDER and ~~be denied the issuance or reissuance of any such~~ SHALL NOT REISSUE THE license or permit by the registrar of motor vehicles beginning with the date on which notification of ~~and denial is mailed to him by the registrar~~ DURING THE SUSPENSION PERIOD.

[The rest of the section would not change, except to add gender-neutral language in divisions (B), (C), & (D).]

### **§4510.34 PROBATIONARY MOTORIZED BICYCLE LICENSE SUSPENSION**

[Was §4507.167]

(A) The registrar of motor vehicles shall ~~revoke~~ IMPOSE A CLASS F SUSPENSION, UNDER SECTION 4510.02 OF THE REVISED CODE, OF the probationary motorized bicycle license issued to any person when the person has been ~~convicted of, pleaded no contest to and been found guilty of, or pleaded guilty to, in any court of competent jurisdiction,~~ or has been adjudicated in juvenile court of having committed, a violation of division (A) or (D) of section 4511.521 of the Revised Code, or of any other section of the Revised Code or similar municipal ordinance for which points are chargeable under section ~~4507.024~~ 4510.02 of the Revised Code.

(B) Any person whose license is ~~revoked~~ SUSPENDED under this section shall mail or deliver ~~his~~ THE probationary motorized bicycle license to the registrar within fourteen days of notification of such revocation. The registrar shall retain such license during the period of ~~revocation~~ SUSPENSION. ~~Any such revocation shall remain in effect until the person reaches sixteen years of age.~~

(C) No application for a motorized bicycle license or probationary motorized bicycle license shall be received from any person whose probationary motorized bicycle license has been ~~revoked~~ SUSPENDED under this section until the person reaches sixteen years of age.

## §4510.41 SEIZURE OF VEHICLE UPON ARREST

[Was §4507.38]

(A) **Definitions** As used in this section:

(1) "Arrested person" means a person who is arrested for a violation of ~~division (B)(1) or (D)(2) of section 4507.02~~ 4510.14 OR 4510.16 or section ~~4507.33~~ 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those Revised Code provisions, and whose arrest results in a vehicle being seized under division (B) of this section.

"Vehicle owner" means either of the following:

(a) The person in whose name is registered, at the time of the seizure, a vehicle that is seized under division (B) of this section;

(b) A person to whom the certificate of title to a vehicle that is seized under division (B) of this section has been assigned and who has not obtained a certificate of title to the vehicle in that person's name, but who is deemed by the court as being the owner of the vehicle at the time the vehicle was seized under division (B) of this section.

"Interested party" includes ~~the owner of a vehicle seized under this section,~~ all lienholders of ~~such a~~ SEIZED UNDER THIS SECTION, the arrested person, the owner of the place of storage at which a vehicle seized under this section is stored, and the person or entity that caused the vehicle to be removed.

(B) **Seizure**

(1) If a person is arrested for a violation of ~~division (B)(1) or (D)(2) of section 4507.02~~ 4510.14 OR 4510.16 OR 4511.203 or section ~~4507.33~~ of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those Revised Code provisions, the arresting officer or another officer of the law enforcement agency that employs the arresting officer, in addition to any action that the arresting officer is required or authorized to take by any other provision of law, shall seize the vehicle that the person was operating at the time of the alleged offense IF REGISTERED IN THE NAME OF THE ARRESTED PERSON and its license plates. ~~Except as otherwise provided in this division, the officer shall seize the vehicle and its license plates regardless of whether the vehicle is registered in the name of the arrested person or in the name of another person or entity. This section does not apply to or affect any rented or leased vehicle that is being rented or leased for a period of thirty days or less, except that a~~ A law enforcement agency that employs a law enforcement officer who makes an arrest of a type that is described in THIS division (B)(1) of this section and that involves a rented or leased vehicle of this type shall notify, within twenty-four hours after the officer makes the arrest, the lessor or owner of the vehicle regarding the circumstances of the arrest and the location at which the vehicle may be picked up. At the time of the seizure of the vehicle, the law enforcement officer who made the arrest shall give the arrested person written notice that the vehicle and its license plates have been seized; that the vehicle either will be kept by the officer's law enforcement agency or will be immobilized at least until the person's initial appearance on the charge of the offense for which the arrest was made; that, at the initial appearance, the court in certain circumstances may order that the vehicle and license plates be released to the vehicle owner ~~owner~~ ARRESTED PERSON until the disposition of that charge; that, if the arrested person is convicted of that charge, the court generally must order the immobilization of the vehicle and the impoundment of its license plates or the forfeiture of the vehicle; ~~and that, if the arrested person is not the vehicle owner, the arrested person immediately should inform the vehicle owner that the vehicle and its license plates have~~

~~been seized and that the vehicle owner may be able to obtain their release at the initial appearance or thereafter.~~

(2) The arresting officer or a law enforcement officer of the agency that employs the arresting officer shall give written notice of the seizure to the court that will conduct the initial appearance of the arrested person. The notice shall be given when the charges are filed against the ~~arrested~~ person. Upon receipt of the notice, the court promptly shall determine whether the arrested person is the vehicle owner and whether there are any liens recorded on the certificate of title to the vehicle. If the court determines that the arrested person is not the vehicle owner, it promptly shall send by regular mail written notice of the seizure of the motor vehicle to the vehicle owner and to all lienholders recorded on the certificate of title. ~~The written notice to the vehicle owner and lienholders shall contain all of the information required by division (B)(1) of this section to be in a notice to be given to the arrested person and also shall specify the date, time, and place of the arrested person's initial appearance. The notice to the vehicle owner also shall state that if the vehicle is immobilized under division (a) of section 4503.233 of the Revised Code, seven days after the end of the period of immobilization a law enforcement agency will send the vehicle owner a notice, informing the owner that if the owner does not obtain the release of the vehicle in accordance with division (d)(3) of section 4503.233 of the Revised Code, the vehicle shall be forfeited. The notice also shall inform the vehicle owner that the owner may be charged expenses or charges incurred under this section and section 4503.233 of the Revised Code for the removal and storage of the vehicle.~~

~~The written notice that is given or delivered to the vehicle owner shall state that if the arrested person pleads guilty to or is convicted of the offense for which the arrested person was arrested and the court issues an immobilization and impoundment order relative to that vehicle, division (D)(4) of section 4503.233 [4503.23.3] of the Revised Code prohibits the vehicle from being sold during the period of immobilization without the prior approval of the court.~~

[Division (B)(3), covering the owner's motion for release of the vehicle and plates, would not change. Division (B)(4), covering places where the vehicle must be towed, the removal of its plates, and exempting it from the contraband law, would not change.]

(C)(1) **Safe Keeping of Vehicle & Plates** [No changes]

(2) **Forfeiture Procedure**

(a) If, at the initial appearance, the arrested person pleads guilty to the violation of ~~division (B)(1) or (D)(2) of section 4507.02~~ 4510.14, 4510.16, OR 4511.203 ~~or section 4507.33~~ of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those Revised Code provisions or pleads no contest to and is convicted of the violation, the court shall impose sentence upon the arrested person as provided by law or ordinance; the court, ~~except as provided in this division and subject to section 4503.235 of the Revised Code,~~ shall order the immobilization of the vehicle the ~~arrested~~ person was operating at the time of, or that was involved in, the offense IF REGISTERED IN THE NAME OF THE ARRESTED PERSON and the impoundment of its license plates under section 4503.233 and section ~~4507.361 or 4507.99~~ 4510.14, 4510.16, 4510.41, OR 4511.203 of the Revised Code or the criminal forfeiture to the state of the vehicle IF REGISTERED IN THE NAME OF THE ARRESTED PERSON under section 4503.234 and section ~~4507.361 or 4507.99~~ 4510.14, 4510.16, 4510.41, OR 4511.203 of the Revised Code, whichever is applicable; and the vehicle and its identification license plates shall not be returned or released to the ~~vehicle owner~~ ARRESTED

~~PERSON. If the arrested person is not the vehicle owner and the vehicle owner is not present at the arrested person's initial appearance and if the court believes that the vehicle owner was not provided adequate notice of the initial appearance, the court, in its discretion, may refrain for a period of time not exceeding seven days from ordering the immobilization of the vehicle and the impoundment of its license plates or the criminal forfeiture of the vehicle so that the vehicle owner may appear before the court to present evidence as to why the court should not order the immobilization of the vehicle and the impoundment of its license plates or the criminal forfeiture of the vehicle. If the court refrains from ordering the immobilization of the vehicle and the impoundment of its license plates or the criminal forfeiture of the vehicle, section 4503.235 of the Revised Code applies relative to the order of immobilization and impoundment or the order of forfeiture.~~

(b) ~~If, at any time, the charge that the arrested person violated division (B)(1) or (D)(2) of section 4507.02 4510.14, 4510.16, OR 4511.203 or section 4507.33 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those Revised Code provisions is dismissed for any reason, the court shall order that the vehicle seized at the time of the arrest and its license plates immediately be released to the ARRESTED PERSON vehicle owner the owner's subject to the payment of expenses or charges incurred in the removal and storage of the vehicle.~~

**(D) Retention Pending Final Disposition** If a vehicle is seized under division (B) of this section and it is not returned to the vehicle owner pursuant to division (C)(2)(b) of this section, the vehicle and its license plates shall be retained until the final disposition of the charge in question. Upon the final disposition of that charge, the court shall do whichever of the following is applicable:

(1) ~~If the arrested person is convicted of or pleads guilty to the violation of division (B)(1) or (D)(2) of section 4507.02 4510.14, 4510.16, OR 4511.203 or section 4507.33 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those Revised Code provisions, the court shall impose sentence upon the arrested person as provided by law or ordinance and, subject to section 4503.235 of the Revised Code, shall order the immobilization of the vehicle the arrested person was operating at the time of, or that was involved in, the offense IF REGISTERED IN THE NAME OF THE PERSON and the impoundment of its license plates under section 4503.233 and section 4507.361 or 4507.99 4510.14, 4510.16, 4510.41, OR 4511.203 of the Revised Code or the criminal forfeiture of the vehicle under section 4503.234 and section 4507.361 or 4507.99 4510.14, 4510.16, 4510.41, OR 4511.203 of the Revised Code, whichever is applicable.~~

(2) ~~If the arrested person is found not guilty of the violation of division (B)(1) or (D)(2) of section 4507.02 4510.14, 4510.16, OR 4511.203 or section 4507.33 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those Revised Code provisions, the court shall order that the vehicle and its license plates immediately be released to the PERSON vehicle owner upon the payment of any expenses or charges incurred in its removal and storage.~~

(3) ~~If the charge that the arrested person violated division (B)(1) or (D)(2) of section 4507.02 or section 4507.33 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those Revised Code provisions is dismissed for any reason, the court shall order that the vehicle and its license plates immediately be released to the PERSON vehicle owner upon the payment of any expenses or charges incurred in its removal and storage.~~

[Division (E), requiring a credit for time held against any immobilization order, would not change.]

(F) **Transfer of Vehicle**

(1) ~~The vehicle owner may be charged expenses or charges incurred in the removal and storage of the immobilized vehicle.~~ The court with jurisdiction over the case, after notice to all interested parties, including lienholders, and after an opportunity for them to be heard, if ~~the vehicle owner fails to appear in person, without good cause,~~ or if the court finds that the ARRESTED PERSON ~~vehicle owner~~ does not intend to seek release of the vehicle at the end of the period of immobilization under section 4503.233 of the Revised Code or that the PERSON ~~vehicle owner~~ is not or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the person or entity that removed it, next into the name of a lienholder, or lastly into the name of the owner of the place of storage. . . [no further changes].

\* \* \*

[Division (F)(2), on removing the license plates immobilized vehicles would not change.]

(3) Prior to initiating a proceeding under division (F)(1) of this section, and upon payment of the fee under division (B) of section 4505.14, any interested party may cause a search to be made of the public records of the bureau of motor vehicles or the clerk of the court of common pleas, to ascertain the identity of any lienholder of the vehicle. The . . . clerk shall provide notice to the ~~vehicle owner~~ ARRESTED PERSON, the defendant, any lienholder, and any other interested parties . . .

## §4510.42 IMPOUNDING PLATES DURING OVI SUSPENSION

[Was §4507.164]

(A) **Registrar's Options** Upon ~~the~~ receipt of any driver's or commercial driver's license or permit that has been ~~revoked or~~ suspended under section 4511.19 OR 4511.191 of the Revised Code, the registrar of motor vehicles, notwithstanding any other provision of law that purports to require ~~him~~ THE REGISTRAR to retain the license or permit, may destroy the license or permit.

(B) **Reissuance**

(1) Subject to division (B)(2) of this section, if a driver's or commercial driver's license or permit that has been suspended under section 4511.19 OR 4511.191 of the Revised Code is delivered to the registrar and if the registrar destroys the license or permit under authority of division (A) of this section, the registrar shall reissue or authorize the reissuance of a driver's or commercial driver's license to the person, free of payment of any type of fee or charge, if either of the following applies:

(a) The person appeals the suspension of the license or permit at ~~his~~ THE PERSON'S initial appearance, pursuant to ~~division (H) of~~ section 4511.19 OR 4511.191 of the Revised Code, the judge of the court of record or the mayor of the mayor's court who conducts the initial appearance terminates the suspension, and the judge or mayor does not suspend the license or permit under section 4511.196 of the Revised Code;

(b) The person appeals the suspension of the license or permit at ~~his~~ THE PERSON'S initial appearance, pursuant to ~~division (H) of~~ section 4511.19 OR 4511.191 of the Revised Code, the judge of the court of record or the mayor of the mayor's court who conducts the initial appearance does not terminate the suspension, the person appeals the judge's or mayor's decision not to terminate the suspension that is made at the initial appearance, and upon appeal of the decision, the suspension is terminated.

[Division (B)(2), which says that division (B)(1) applies only if the destroyed license was valid, would not change. Division (C), which says a license issued under (B)(1) would have the same expiration date as the license it replaced, also would not change.]

## **§4510.43 IMMOBILIZING OR DISABLING DEVICES**

[Was §4511.83]

(A) **Definitions** As used in this section:

(1) "Ignition interlock device" means a device APPROVED BY THE DIRECTOR OF PUBLIC SAFETY that connects a breath analyzer to a motor vehicle's ignition system, that is constantly available to monitor the concentration by weight of alcohol in the breath of any person attempting to start that motor vehicle by using its ignition system, and that deters starting the motor vehicle by use of its ignition system unless the person attempting to so start the vehicle provides an appropriate breath sample for the device and the device determines that the concentration by weight of alcohol in the person's breath is below a preset level.

(2) ~~"Offender with restricted driving privileges" means an offender who is subject to an order that was issued under division (F) of section 4507.16 of the Revised Code as a condition of the granting of occupational driving privileges or an offender whose driving privilege is restricted as a condition of probation pursuant to division (I) of section 2951.02 of the Revised Code.~~ "IMMOBILIZING OR DISABLING DEVICE" MEANS A DEVICE APPROVED BY THE DIRECTOR OF PUBLIC SAFETY THAT MAY BE ORDERED BY A COURT TO BE USED BY AN OFFENDER AS A CONDITION OF LIMITED DRIVING PRIVILEGES. THE DEVICE MAY CONSIST OF ANY OF THE FOLLOWING: BREATH-ALCOHOL IGNITION INTERLOCK DEVICE; IGNITION BLOCKING DEVICE INITIATED BY TIME OR MAGNETIC OR ELECTRONIC ENCODING; ACTIVITY MONITOR; OR ANY OTHER DEVICE THAT REASONABLY ASSURES THE COURT OF COMPLIANCE WITH ITS ORDER GRANTING DRIVING PRIVILEGES.

"IMMOBILIZING OR DISABLING DEVICE" INCLUDES A PROTOTYPE DEVICE THAT IS USED ACCORDING TO PROTOCOLS DESIGNED TO ENSURE EFFICIENT AND EFFECTIVE MONITORING OF LIMITED DRIVING PRIVILEGES GRANTED BY THE COURT TO AN OFFENDER. THE COURT CONSIDERING THE USE OF A PROTOTYPE IN A PILOT PROGRAM SHALL ADVISE THE DIRECTOR OF PUBLIC SAFETY, THIRTY DAYS BEFORE THE USE, OF THE PROTOTYPE AND ITS PROTOCOL, METHODOLOGY, MANUFACTURER, AND LICENSOR, LESSOR, OTHER AGENT, OR OWNER AND THE LENGTH OF THE COURT'S PILOT PROGRAM. A PROTOTYPE SHALL NOT BE USED FOR A VIOLATION OF SECTIONS 4510.14, 4511.19, OR 4511.191 OF THE REVISED CODE. FOR SUCH VIOLATIONS, THE COURT SHALL ORDER AN IMMOBILIZING OR DISABLING DEVICE THAT TESTS FOR ALCOHOL, DRUGS, OR A COMBINATION OF THEM.

(3) "PROTOTYPE DEVICE" MEANS ANY TESTING DEVICE TO MONITOR LIMITED DRIVING PRIVILEGES THAT HAS NOT YET BEEN APPROVED OR DISAPPROVED BY THE DIRECTOR OF PUBLIC SAFETY.

(B) **Limits on Those With Privileges**

~~(1) Except in cases of a substantial emergency when no other person is reasonably available to drive in response to the emergency, no person shall knowingly rent, lease, or lend a motor vehicle to any offender with restricted driving privileges, unless the vehicle is equipped with a functioning ignition interlock device that is certified pursuant to division (D) of this section.~~

~~(2) Any offender with restricted driving privileges who rents, leases, or borrows a motor vehicle from another person shall notify the person who rents, leases, or lends the motor vehicle to him that the offender has restricted driving privileges and of the nature of the restriction.~~

~~(3)~~ Any offender with ~~restricted~~ LIMITED driving privileges who is required to operate a motor vehicle owned by the offender's employer in the course and scope of his THE OFFENDER'S employment may operate that vehicle without the installation of an ignition interlock device IMMOBILIZING OR DISABLING DEVICE provided that the employer has been notified that the offender has ~~restricted~~ LIMITED driving privileges and of the nature of the ~~restriction~~ PRIVILEGES and provided further that the THE offender has SHALL HAVE proof of the employer's notification in the person's possession while operating the employer's vehicle for normal business duties. A motor vehicle owned by a business that is partly or entirely owned or controlled by an offender with ~~restricted~~ LIMITED driving privileges is not a motor vehicle owned by an employer, for purposes of this division.

(C) **Certification** ~~If a court, pursuant to division (F) of section 4507.16 of the Revised Code, imposes the use of an ignition interlock device as a condition of the granting of occupational driving privileges, the court shall require the offender to provide proof of compliance to the court at least once quarterly or more frequently as ordered by the court in its discretion. If a court imposes the use of an ignition interlock device as a condition of probation under division (I) of section 2951.02 of the Revised Code, the court shall require the offender to provide proof of compliance to the court of probation status. In either case in which a court imposes the use of such a device, the offender, at least once quarterly or more frequently as ordered by the court in its discretion, shall have the device inspected as ordered by the court for accurate operation and shall provide the results of the inspection to the court or, if applicable, to the offender's probation officer.~~

(1) The director of public safety, upon consultation with the director of health and in accordance with Chapter 119. of the Revised Code, shall certify ~~ignition interlock devices~~ IMMOBILIZING AND DISABLING DEVICES and shall publish and make available to the courts, without charge, a list of approved devices together with information about the manufacturers of the devices and where they may be obtained. The cost of obtaining the certification of an ~~ignition interlock device~~ IMMOBILIZING OR DISABLING DEVICE shall be paid by the manufacturer of the device to the director of public safety and shall be deposited in the drivers' treatment and intervention fund established by ~~section~~ SECTIONS 4511.19 AND ~~4511.191~~ of the Revised Code.

(2) The director of public safety, in accordance with Chapter 119. of the Revised Code, shall adopt and publish rules setting forth the requirements for obtaining the certification of an ~~ignition interlock device~~ IMMOBILIZING OR DISABLING DEVICES. No ~~ignition interlock device~~ VEHICLE IMMOBILIZING OR DISABLING DEVICE shall be certified by the director of public safety pursuant to division ~~(D)~~ (C)(1) of this section unless it meets the requirements specified and published by the director in the rules adopted pursuant to this division. ~~The requirements shall include provisions for setting a minimum and maximum calibration range and shall include, but shall not be limited to, specifications that the device complies with all of the following:~~

- ~~(a) — It does not impede the safe operation of the vehicle.~~
- ~~(b) — It has features that make circumvention difficult and that do not interfere with normal use of the vehicle.~~
- ~~(c) — It correlates well with established measures of alcohol impairment.~~
- ~~(d) — It works accurately and reliably in an unsupervised environment.~~
- ~~(e) — It is resistant to tampering and shows evidence of tampering if tampering is attempted.~~
- ~~(f) — It is difficult to circumvent and requires premeditation to do so.~~
- ~~(g) — It minimizes inconvenience to a sober user.~~
- ~~(h) — It requires a proper, deep-lung breath sample or other accurate measure of the concentration by weight of alcohol in the breath.~~
- ~~(i) — It operates reliably over the range of automobile environments.~~
- ~~(j) — It is made by a manufacturer who is covered by product liability insurance.~~

(3) The director of public safety may adopt, in whole or in part, the guidelines, rules, regulations, studies, or independent laboratory tests performed and relied upon by other states, or their agencies or commissions, in the certification or approval of ~~ignition interlock devices~~. IMMOBILIZING OR DISABLING DEVICES.

(4) The director . . . shall adopt rules in accordance with Chapter 119. of the Revised Code for the design of a warning label that shall be affixed to each ~~ignition interlock device~~ IMMOBILIZING OR DISABLING DEVICE upon installation . . . [no further changes].

(D) **Prohibitions**

(1) No offender with ~~restricted~~ LIMITED driving privileges, during any period that ~~he~~ THE PERSON is required to operate only a motor vehicle equipped with an ~~ignition interlock device~~ IMMOBILIZING OR DISABLING DEVICE, shall request or permit any other person to breathe into the device or start a THE motor vehicle ~~equipped with the device~~, for the purpose of providing the offender with an operable motor vehicle.

(2)

(a) Except as provided in division (D)(2)(b) of this section, no person shall breathe into an ~~ignition interlock~~ IMMOBILIZING OR DISABLING device or start a motor vehicle equipped with an ~~ignition interlock~~ IMMOBILIZING OR DISABLING device for the purpose of providing an operable motor vehicle to an offender with ~~restricted~~ LIMITED driving privileges.

(b) Division (D)(2)(a) of this section does not apply to an offender with ~~restricted~~ LIMITED driving privileges who breathes into an ~~ignition interlock~~ IMMOBILIZING OR DISABLING device or starts a motor vehicle equipped with an ~~ignition interlock~~ IMMOBILIZING OR DISABLING device for the purpose of providing ~~himself~~ THE OFFENDER with an operable motor vehicle.

(3) No unauthorized person shall tamper with or circumvent the operation of an ~~ignition interlock~~ IMMOBILIZING OR DISABLING device.

(E) **Penalty** [Was §4511.99(J), in part] Whoever violates division (D)(1), (2), or (3) of THIS section ~~4511.83 of the Revised Code~~ is guilty of AN IMMOBILIZING OR DISABLING DEVICE VIOLATION, a misdemeanor of the first degree.

## §4510.52 REISSUANCE FOR FEE

[Was §4507.54]

(A) Upon the receipt of any driver's license or commercial driver's license or permit that has been suspended, ~~revoked~~, OR canceled, ~~or forfeited~~ under any provision of law, and notwithstanding any other provision of law that requires the registrar of motor vehicles to retain the license or permit, the registrar may destroy the license or permit.

(B) If, as authorized by division (A) of this section, the registrar destroys a license or permit that has been suspended, ~~revoked~~, OR canceled, ~~or forfeited~~, ~~he~~ THE REGISTRAR shall reissue or authorize the reissuance of a new license or permit . . . [The rest of the section would not change, except that gender-neutral terms should be used.]

## §4510.53 REISSUANCE AFTER OVI SUSPENSION

[Was §4507.55]

(A) **Destruction** Upon the receipt of any driver's or commercial driver's license or permit that has been ~~revoked~~ suspended under section 4511.19 OR 4511.191 of the Revised Code, the registrar of motor vehicles, notwithstanding any other provision of law that purports to require ~~him~~ THE REGISTRAR to retain the license or permit, may destroy the license or permit.

(B) **Free Reissuance**

(1) Subject to division (B)(2) of this section, if a driver's or commercial driver's license or permit ~~that has been~~ suspended under section 4511.19 OR 4511.191 of the Revised Code is delivered to the registrar and if the registrar destroys the license or permit under authority of division (A) of this section, the registrar shall reissue or authorize the reissuance of a driver's or commercial driver's license to the person, free of payment of any type of fee or charge, if either of the following applies:

(a) The person appeals the suspension ~~of the license or permit~~ at his THE PERSON'S initial appearance, pursuant to ~~division (H)~~ of section 4511.19 OR 4511.191 of the Revised Code, the judge of the court of record or the mayor of the mayor's court who conducts the initial appearance terminates the suspension, and the judge or mayor does not suspend the license or permit under section 4511.196 of the Revised Code;

(b) The person appeals the suspension ~~of the license or permit~~ at his THE PERSON'S initial appearance, pursuant to ~~division (H)~~ of section 4511.19 OR 4511.191 of the Revised Code, the judge of the court of record or the mayor of the mayor's court who conducts the initial appearance does not terminate the suspension, the person appeals the judge's or mayor's decision not to terminate the suspension that is made at the initial appearance, and upon appeal of the decision, the suspension is terminated.

[Divisions (B)(2) & (C) would not change]

## **§4510.54 LIFETIME SUSPENSION MODIFICATION**

(A) **Eligibility** A PERSON WHOSE DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE HAS BEEN SUSPENDED FOR LIFE MAY FILE A MOTION WITH THE SENTENCING COURT FOR MODIFICATION OR TERMINATION OF THE SUSPENSION. SUCH A MOTION MAY BE HEARD ONLY ONCE. THE PERSON FILING THE MOTION SHALL DEMONSTRATE ALL OF THE FOLLOWING:

(1) AT LEAST FIFTEEN YEARS HAS ELAPSED SINCE THE SUSPENSION BEGAN;

(2) FOR THE PAST FIFTEEN YEARS, THE PERSON HAS NOT BEEN FOUND GUILTY OF ANY FELONY, ANY OFFENSE INVOLVING A MOVING VIOLATION UNDER FEDERAL LAW, THE LAW OF THIS STATE, OR THE LAW OF ANY OF ITS POLITICAL SUBDIVISIONS, OR ANY VIOLATION OF A SUSPENSION UNDER CHAPTER 4510. OF THE REVISED CODE [the proposed license suspension chapter] OR SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE;

(3) THE PERSON HAS PROOF OF FINANCIAL RESPONSIBILITY, A POLICY OF LIABILITY INSURANCE IN EFFECT THAT MEETS THE MINIMUM STANDARD SET FORTH IN SECTION 4509.51 OF THE REVISED CODE, OR PROOF, TO THE SATISFACTION OF THE REGISTRAR, THAT THE PERSON IS ABLE TO RESPOND IN DAMAGES IN AN AMOUNT AT LEAST EQUAL TO THE MINIMUM AMOUNTS SPECIFIED IN THAT SECTION;

(4) IF THE SUSPENSION WAS IMPOSED BECAUSE THE PERSON WAS UNDER THE INFLUENCE OF ALCOHOL, A DRUG OF ABUSE, OR COMBINATION OF THEM AT THE TIME OF THE OFFENSE, THE PERSON ALSO SHALL DEMONSTRATE ALL OF THE FOLLOWING:

(a) THE PERSON SUCCESSFULLY COMPLETED AN ALCOHOL, DRUG, OR ALCOHOL AND DRUG TREATMENT PROGRAM;

(b) THE PERSON HAS NOT ABUSED ALCOHOL OR OTHER DRUGS FOR A PERIOD SATISFACTORY TO THE COURT;

(c) FOR THE PAST FIFTEEN YEARS THE PERSON HAS NOT BEEN FOUND GUILTY OF ANY ALCOHOL OR DRUG RELATED OFFENSE.

(B) **Timing of Hearing** UPON RECEIPT OF A MOTION FOR MODIFICATION OR TERMINATION OF THE SUSPENSION UNDER THIS SECTION, THE COURT MAY

SCHEDULE A HEARING ON THE MOTION. IF SCHEDULED, THE HEARING UNDER THIS SECTION SHALL BE CONDUCTED IN OPEN COURT WITHIN NINETY DAYS AFTER THE DATE ON WHICH THE MOTION IS FILED.

(C) **Notice of Hearing** THE COURT SHALL NOTIFY THE PERSON WHOSE LICENSE WAS SUSPENDED AND THE PROSECUTING ATTORNEY OF THE HEARING. UPON RECEIPT OF THE NOTICE FROM THE COURT, THE PROSECUTING ATTORNEY SHALL NOTIFY THE VICTIM OR THE VICTIM'S REPRESENTATIVE OF THE HEARING.

(D) **The Hearing** AT ANY HEARING UNDER THIS SECTION, THE PERSON WHO SEEKS MODIFICATION OR TERMINATION OF THE SUSPENSION HAS THE BURDEN TO DEMONSTRATE, UNDER OATH, THAT THE PERSON MEETS THE REQUIREMENTS OF DIVISION (A) OF THIS SECTION. AT SUCH A HEARING, THE COURT SHALL AFFORD THE OFFENDER OR THE OFFENDER'S COUNSEL AN OPPORTUNITY TO PRESENT ORAL OR WRITTEN INFORMATION RELEVANT TO THE MOTION. THE COURT SHALL AFFORD A SIMILAR OPPORTUNITY TO PROVIDE RELEVANT INFORMATION TO THE PROSECUTING ATTORNEY AND THE VICTIM OR VICTIM'S REPRESENTATIVE.

BEFORE RULING ON THE MOTION, THE COURT SHALL TAKE INTO ACCOUNT THE PERSON'S DRIVING RECORD, THE NATURE OF THE OFFENSE THAT LED TO THE SUSPENSION, AND THE IMPACT OF THE OFFENSE ON ANY VICTIM. IN ADDITION, IF THE OFFENDER IS ELIGIBLE FOR MODIFICATION OR TERMINATION OF THE SUSPENSION UNDER DIVISION (A)(2) OF THIS SECTION, THE COURT SHALL CONSIDER WHETHER THE PERSON COMMITTED ANY OTHER OFFENSE WHILE UNDER SUSPENSION AND WEIGH WHETHER THE OFFENSE IS RELEVANT. THE COURT MAY MODIFY OR TERMINATE THE SUSPENSION SUBJECT TO ANY CONDITIONS IT DEEMS PROPER IF IT FINDS THAT ALLOWING THE PERSON TO DRIVE IS NOT LIKELY TO PRESENT A DANGER TO THE PUBLIC. AFTER A RULING, THE PROSECUTING ATTORNEY SHALL NOTIFY THE VICTIM OF THE COURT'S RULING.

(E) **Effect of Later Offense** IF A PERSON'S LICENSE SUSPENSION IS MODIFIED UNDER THIS SECTION AND THE PERSON IS SUBSEQUENTLY FOUND GUILTY OF ANY MOVING VIOLATION, AS DEFINED IN SECTION 4510.01 OF THE REVISED CODE, OR ANY SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE, THAT CARRIES AS A POSSIBLE PENALTY THE SUSPENSION OF A PERSON DRIVER'S LICENSE OR COMMERCIAL LICENSE, THE COURT MAY REIMPOSE THE LIFETIME SUSPENSION.

### **§§4510.61-4510.64 INTERSTATE DRIVER'S LICENSE COMPACT**

[Was §§4507.60-4507.63. No changes, other than renumbering.]

### **§§4510.71 & 4510.72 NON RESIDENT VIOLATOR COMPACT**

[Was §§4511.95 & 4511.951. No changes, other than renumbering.]

### **§2301.374 SUSPENSION FOR CHILD SUPPORT DEFAULT**

[Make a Class F suspension under §4510.02(B). No other changes.]

# DRUNKEN DRIVING AND RELATED PROVISIONS

## §4501.01 DEFINITIONS

As used in this chapter and Chapter 4513. of the Revised Code:

(A) "Vehicle" means every device, including a motorized bicycle, in, upon, or by which any person or property may be transported or drawn upon a highway, except motorized wheelchairs, devices moved by power collected from overhead electric trolley wires, or used exclusively upon stationary rails or tracks, and devices ~~other than bicycles~~ moved by human power.

\* \* \*

~~(GGG)~~ "OPERATE" MEANS TO CAUSE OR HAVE CAUSED MOVEMENT OF A VEHICLE ON ANY PUBLIC OR PRIVATE PROPERTY USED BY THE PUBLIC FOR PURPOSES OF VEHICULAR TRAVEL OR PARKING.

## §4511.19 OPERATING A VEHICLE UNDER THE INFLUENCE (OVI)

[Was §§4511.19, 4511.99(A), & 4507.16(B) & (F)]

(A) **Prohibitions** No person shall operate any vehicle, streetcar, or trackless trolley ~~within this state, if,~~ AT THE TIME OF OPERATION, any of the following apply:

- (1) The person is under the influence of alcohol, a drug of abuse, or ~~alcohol and a drug of abuse~~ A COMBINATION OF THEM;
- (2) The person has a concentration of ten-hundredths of one percent or more by weight PER UNIT VOLUME of alcohol in ~~his~~ THE PERSON'S WHOLE blood;
- (3) THE PERSON HAS A CONCENTRATION OF TWELVE-HUNDREDTHS OF ONE PERCENT OR MORE BY WEIGHT PER UNIT VOLUME OF ALCOHOL IN THE PERSON'S BLOOD SERUM OR PLASMA;
- (4) The person has a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of ~~his~~ THE PERSON'S breath;
- ~~(4)~~ (5) The person has a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of ~~his~~ THE PERSON'S urine.

(B) **Underage Prohibitions** No person under twenty-one years of age shall operate any vehicle, street car, or trackless trolley within this state, if any of the following apply:

- (1) The person has a concentration of at least two-hundredths of one percent but less than ten-hundredths of one percent by weight PER UNIT VOLUME of alcohol in ~~his~~ THE PERSON'S WHOLE blood;
- (2) THE PERSON HAS A CONCENTRATION OF THREE-HUNDREDTHS OF ONE PERCENT BUT LESS THAN TWELVE-HUNDREDTHS 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 ten-hundredths of one gram by weight of alcohol per two hundred ten liters of ~~his~~ THE PERSON'S breath;
- ~~(3)~~ (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than fourteen-hundredths of one gram by weight of alcohol per one hundred milliliters of ~~his~~ THE PERSON'S urine.

(C) **Underage Violation Limit** In any proceeding arising out of one incident, a person may be charged with a violation of division (A)(1) and a violation of division (B)(1), (2), (3), or (4) of this section, but ~~he~~ THE PERSON may not be convicted of more than one violation of these

divisions.

(D) **Chemical Tests**

(1) In any criminal prosecution or juvenile court proceeding for a violation of this section OTHER THAN A VIOLATION OF DIVISION (A)(1) OF THIS SECTION, OR 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 in the blood, breath, or urine~~ AN EQUIVALENT OFFENSE, the court may admit evidence on the concentration of alcohol, a drug of abuse, or ~~alcohol and a drug of abuse~~ 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 a chemical analysis of the ~~defendant's blood, urine, breath, or other bodily substance~~ withdrawn within two hours of the alleged violation.

When a person submits to a blood test at the request of a ~~police~~ LAW ENFORCEMENT officer under section 4511.191 of the Revised Code, only a physician, a registered nurse, ~~or a qualified technician, or chemist,~~ OR PHLEBOTOMIST shall withdraw blood for the purpose of determining its alcohol, drug, or alcohol and drug content. This limitation does not apply to the taking of breath or urine specimens. A ~~physician, a registered nurse, or a qualified technician, or chemist~~ AN AUTHORIZED PERSON may refuse to withdraw blood for the purpose of determining the ~~alcohol, drug, or alcohol and drug content of the blood~~ UNDER THIS DIVISION, if in ~~his~~ THAT PERSON'S opinion the physical welfare of the ~~person~~ DEFENDANT would be endangered by the withdrawing of blood.

Such bodily substances shall be analyzed in accordance with the methods approved by the director of health by an individual possessing a valid permit issued by the director of health pursuant to section 3701.143 of the Revised Code.

(2) In a criminal prosecution or juvenile court proceeding for a violation of division (A) of this section, OR 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 substantially equivalent to division (A) of this section relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine~~ AN EQUIVALENT OFFENSE, if there was at the time the bodily substance was withdrawn a concentration of less than ~~ten hundredths of one percent by weight per of alcohol~~ THE CONCENTRATIONS OF ALCOHOL SPECIFIED IN DIVISIONS (A)(2), (3), (4), OR (5) OF THIS SECTION in the defendant's blood, ~~less than ten hundredths of one gram by weight of alcohol per two hundred ten liters of his breath, or less than fourteen hundredths of one gram by weight of alcohol per one hundred milliliters of his urine,~~ such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This division does not limit or affect a ~~criminal prosecution or juvenile court~~ proceeding for a violation of division (B) of this section or of a ~~municipal ordinance substantially equivalent to division (B) of this section relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine~~ AN EQUIVALENT OFFENSE TO THAT DIVISION.

(3) Upon the request of the person who was tested, the results of the chemical test shall be made available to ~~him~~ THE PERSON, ~~his~~ OR THE PERSON'S attorney, ~~or his agent,~~ immediately upon the completion of the chemical analysis.

The person tested may have a physician, a registered nurse, ~~or a qualified technician, or chemist,~~ OR PHLEBOTOMIST of ~~his own~~ THE PERSON'S choosing administer a chemical test or tests in addition to any administered at the request of a ~~police~~ LAW ENFORCEMENT officer, ~~and shall be so advised.~~ THE FORM TO BE READ TO THE PERSON SHALL STATE THAT THE PERSON MAY HAVE AN INDEPENDENT TEST PERFORMED AT THE PERSON'S EXPENSES. 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 police LAW ENFORCEMENT officer.

(4) **Presumption of OVI for Refusal** ANY PERSON WHO REFUSES TO SUBMIT TO A CHEMICAL TEST OR TESTS REQUESTED BY A LAW ENFORCEMENT OFFICER IS REBUTTABLY PRESUMED TO HAVE BEEN UNDER THE INFLUENCE IN VIOLATION OF DIVISION (A)(1) OF THIS SECTION WHILE THE PERSON OPERATED THE VEHICLE.

(E) **Lab Report as Prima Facie Evidence**

(1) IN ANY CRIMINAL PROSECUTION OR JUVENILE COURT PROCEEDING FOR A VIOLATION OF THIS SECTION, OR OF AN EQUIVALENT OFFENSE, A LABORATORY REPORT CONTAINING AN ANALYSIS OF THE WHOLE BLOOD, BLOOD SERUM OR PLASMA, URINE, OR OTHER BODILY SUBSTANCE TESTED SHALL BE ADMITTED AS PRIMA FACIE EVIDENCE FROM ANY FORENSIC LABORATORY CERTIFIED BY THE DEPARTMENT OF HEALTH.

(2) THE LABORATORY REPORT SHALL CONTAIN ALL OF THE FOLLOWING:

(a) THE SIGNATURE, UNDER OATH, OF ANY PERSON PERFORMING THE ANALYSIS;

(b) ANY FINDINGS AS TO THE IDENTITY AND QUANTITY OF ALCOHOL, A DRUG OF ABUSE, OR COMBINATION OF THEM FOUND;

(c) A COPY OF A NOTARIZED STATEMENT BY THE LABORATORY DIRECTOR OR DESIGNEE CONTAINING ALL OF THE FOLLOWING: THE NAME OF ANY CERTIFIED ANALYST OR TEST PERFORMER INVOLVED IN THE REPORT; THE ANALYST'S EMPLOYMENT RELATIONSHIP WITH THE LABORATORY ISSUING THE REPORT; AND A NOTATION THAT PERFORMING THE ANALYSIS IS PART OF THE ANALYST'S REGULAR DUTIES;

(d) AN OUTLINE OF THE ANALYST'S EDUCATION, TRAINING, AND EXPERIENCE IN PERFORMING THE TYPE OF ANALYSIS INVOLVED AND A CERTIFICATION THAT APPROPRIATE QUALITY CONTROL STANDARDS WERE MET BY THE LABORATORY GENERALLY, AND IN THIS PARTICULAR ANALYSIS, UNDER DEPARTMENT OF HEALTH RULES.

(3) THE PROSECUTING ATTORNEY SHALL SERVE A COPY OF THE REPORT ON THE DEFENDANT'S ATTORNEY, OR ON THE DEFENDANT IF THE DEFENDANT HAS NO ATTORNEY, BEFORE ANY PROCEEDING, OTHER THAN A PRELIMINARY HEARING OR GRAND JURY PROCEEDING, IN WHICH THE REPORT IS TO BE USED AGAINST THE DEFENDANT.

(4) THE REPORT SHALL NOT BE PRIMA FACIE EVIDENCE OF THE CONTENTS, IDENTITY, OR AMOUNT OF ANY SUBSTANCE IF THE DEFENDANT OR THE DEFENDANT'S ATTORNEY DEMANDS THE TESTIMONY OF THE PERSON SIGNING THE REPORT WITHIN SEVEN DAYS FROM THE DATE THE REPORT IS RECEIVED BY THE DEFENDANT OR DEFENDANT'S ATTORNEY. THE TIME MAY BE EXTENDED BY THE JUDGE IN THE INTEREST OF JUSTICE.

(4) (E) **Immunity** Any physician, registered nurse, ~~or~~ qualified technician, ~~or~~ chemist, OR PHLEBOTOMIST who withdraws blood from a person pursuant to this section, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section, is immune from criminal liability, and from civil liability that is based upon a claim of assault and battery or based upon any other claim that is not in the nature of a claim of malpractice, for any act performed in withdrawing blood from the person UNLESS THE PERSON WITHDRAWING BLOOD ENGAGES IN WILLFUL OR WANTON MISCONDUCT.

(G) **Penalties** [Was §4511.99(A)] Upper case is used because this would be new language in the substantive OVI statute.] WHOEVER VIOLATES DIVISION (A) OF THIS SECTION IS GUILTY OF OPERATING A VEHICLE UNDER THE INFLUENCE OF ALCOHOL, A

DRUG, OR A COMBINATION OF THEM. THE COURT SHALL SENTENCE THE OFFENDER UNDER CHAPTER 2929. OF THE REVISED CODE, SUBJECT TO THE DIFFERENCES AUTHORIZED BY THIS SECTION.

(1) **“First” Offense** AN OFFENDER WHO, WITHIN SIX YEARS OF THE OFFENSE, HAS NOT PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF DIVISION (A) OF THIS SECTION OR OF AN EQUIVALENT OFFENSE IS GUILTY OF A MISDEMEANOR OF THE FIRST DEGREE. THE COURT SHALL SENTENCE THE OFFENDER TO ALL OF THE FOLLOWING:

(a) A MANDATORY JAIL TERM OF THREE CONSECUTIVE DAYS. THE THREE DAY TERM SHALL BE IMPOSED UNLESS THE COURT INSTEAD REQUIRES THE OFFENDER TO ATTEND, FOR THREE CONSECUTIVE DAYS, A DRIVERS' INTERVENTION PROGRAM CERTIFIED UNDER SECTION 3793.10 OF THE REVISED CODE. THE COURT MAY SENTENCE AN OFFENDER TO BOTH AN INTERVENTION PROGRAM AND A JAIL TERM. AN ADDITIONAL JAIL TERM MAY BE IMPOSED. HOWEVER, THE CUMULATIVE JAIL TERM FOR THE OFFENSE SHALL NOT EXCEED SIX MONTHS;

(b) A FINE OF NOT LESS THAN TWO HUNDRED AND NOT MORE THAN ONE THOUSAND DOLLARS;

(c) A CLASS FIVE LICENSE SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. THE COURT MAY GRANT LIMITED DRIVING PRIVILEGES UNDER SECTION 4510.13 OF THE REVISED CODE.

(2) **“Second” Offense** AN OFFENDER WHO, WITHIN SIX YEARS OF THE OFFENSE, HAS PREVIOUSLY BEEN CONVICTED OF ONE VIOLATION OF DIVISION (A) OF THIS SECTION OR AN EQUIVALENT OFFENSE IS GUILTY OF A MISDEMEANOR OF THE FIRST DEGREE. THE COURT SHALL SENTENCE THE OFFENDER TO ALL OF THE FOLLOWING:

(a) A MANDATORY JAIL TERM OF TEN CONSECUTIVE DAYS. THE TEN DAY TERM SHALL BE IMPOSED UNLESS, SUBJECT TO DIVISION (K) OF THIS SECTION, THE COURT INSTEAD IMPOSES A SENTENCE CONSISTING OF BOTH A JAIL TERM AND A TERM OF ELECTRONICALLY MONITORED HOUSE ARREST. AN ADDITIONAL JAIL TERM MAY BE IMPOSED. HOWEVER, THE CUMULATIVE JAIL TERM FOR THE OFFENSE SHALL NOT EXCEED SIX MONTHS;

IN ADDITION, THE COURT MAY REQUIRE THE OFFENDER TO ATTEND A DRIVERS' INTERVENTION PROGRAM THAT IS CERTIFIED UNDER SECTION 3793.10 OF THE REVISED CODE. IF THE OPERATOR OF THE DRIVERS' INTERVENTION PROGRAM DETERMINES THAT THE OFFENDER IS ALCOHOL DEPENDENT, THE PROGRAM SHALL NOTIFY THE COURT, AND THE COURT SHALL ORDER THE OFFENDER TO OBTAIN TREATMENT THROUGH AN ALCOHOL AND DRUG ADDICTION PROGRAM, AUTHORIZED BY SECTION 3793.02 OF THE REVISED CODE, SUBJECT TO DIVISION (I) OF THIS SECTION;

(b) NOTWITHSTANDING SECTION 2929.28 OF THE REVISED CODE, A FINE OF NOT LESS THAN THREE HUNDRED AND NOT MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS;

(c) A CLASS THREE LICENSE SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. THE COURT MAY GRANT LIMITED DRIVING PRIVILEGES UNDER DIVISION (L) OF THIS SECTION;

(d) IMMOBILIZATION OF THE VEHICLE FOR NINETY DAYS, IF THE VEHICLE IS REGISTERED IN THE OFFENDER'S NAME, AND IMPOUNDMENT OF THE IDENTIFICATION LICENSE PLATES OF THAT VEHICLE FOR NINETY DAYS.

(3) **“Third” Offense** AN OFFENDER WHO, WITHIN SIX YEARS OF THE OFFENSE, HAS PREVIOUSLY BEEN FOUND GUILTY OF TWO VIOLATIONS OF

DIVISION (A) OF THIS SECTION OR AN EQUIVALENT OFFENSE IS GUILTY OF A MISDEMEANOR OF THE FIRST DEGREE. THE COURT SHALL SENTENCE THE OFFENDER TO ALL OF THE FOLLOWING:

(a) A MANDATORY JAIL TERM OF THIRTY CONSECUTIVE DAYS. NOTWITHSTANDING SECTION 2929.26 OF THE REVISED CODE, THE COURT MAY SENTENCE THE OFFENDER TO A LONGER JAIL TERM OF NOT MORE THAN ONE YEAR. THE THIRTY DAY TERM SHALL BE IMPOSED UNDER THIS DIVISION UNLESS, SUBJECT TO DIVISION (K) OF THIS SECTION, THE COURT INSTEAD IMPOSES A SENTENCE CONSISTING OF BOTH A JAIL TERM AND A TERM OF ELECTRONICALLY MONITORED HOUSE ARREST. AN ADDITIONAL JAIL TERM MAY BE IMPOSED. HOWEVER, THE CUMULATIVE JAIL TERM FOR THE OFFENSE SHALL NOT EXCEED ONE YEAR;

(b) NOTWITHSTANDING SECTION 2929.28 OF THE REVISED CODE, A FINE OF NOT LESS THAN FIVE HUNDRED AND NOT MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS;

(c) A CLASS TWO LICENSE SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. THE COURT MAY GRANT LIMITED DRIVING PRIVILEGES UNDER DIVISION (L) OF THIS SECTION;

(d) IMMOBILIZATION OF THE VEHICLE FOR ONE HUNDRED EIGHTY DAYS, IF THE VEHICLE IS REGISTERED IN THE OFFENDER'S NAME, AND IMPOUNDMENT OF THE IDENTIFICATION LICENSE PLATES OF THAT VEHICLE FOR ONE HUNDRED EIGHTY DAYS;

(e) AN ALCOHOL AND DRUG ADDICTION PROGRAM, AUTHORIZED BY SECTION 3793.02 OF THE REVISED CODE, UNDER DIVISION (I) OF THIS SECTION.

(4) **“Fourth” Offense** AN OFFENDER WHO, WITHIN SIX YEARS OF THE OFFENSE, HAS PREVIOUSLY BEEN FOUND GUILTY OF THREE VIOLATIONS OF DIVISION (A) OF THIS SECTION OR AN EQUIVALENT OFFENSE IS GUILTY OF A FELONY OF THE FIFTH DEGREE. THE COURT SHALL SENTENCE THE OFFENDER TO ALL OF THE FOLLOWING:

(a) A MANDATORY TERM OF SIXTY CONSECUTIVE DAYS OF LOCAL INCARCERATION. AN ADDITIONAL JAIL TERM MAY BE IMPOSED. HOWEVER, THE CUMULATIVE JAIL TERM FOR THE OFFENSE SHALL NOT EXCEED ONE YEAR. NO PRISON TERM IS AUTHORIZED FOR THE OFFENSE;

(b) NOTWITHSTANDING SECTION 2929.18 OF THE REVISED CODE, A FINE OF NOT LESS THAN SEVEN HUNDRED FIFTY NOR MORE THAN TEN THOUSAND DOLLARS;

(c) A CLASS ONE LICENSE SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. THE COURT MAY GRANT LIMITED DRIVING PRIVILEGES UNDER DIVISION (L) OF THIS SECTION;

(d) CRIMINAL FORFEITURE OF THE VEHICLE INVOLVED IN THE OFFENSE UNDER SECTION 4503.234 OF THE REVISED CODE, IF THE VEHICLE OPERATED BY THE OFFENDER IS REGISTERED IN THE OFFENDER'S NAME;

(e) AN ALCOHOL AND DRUG ADDICTION PROGRAM, AUTHORIZED BY SECTION 3793.02 OF THE REVISED CODE, SUBJECT TO DIVISION (I) OF THIS SECTION;

(f) IN ADDITION, THE COURT MAY IMPOSE A TERM OF ELECTRONICALLY MONITORED HOUSE ARREST, PROVIDED THE TERM SHALL NOT COMMENCE UNTIL AFTER THE OFFENDER HAS SERVED THE MANDATORY TERM OF LOCAL INCARCERATION.

(5) **“Fifth” and Subsequent Offenses** AN OFFENDER WHO HAS PREVIOUSLY BEEN FOUND GUILTY OF FOUR OR MORE VIOLATIONS OF DIVISION (A) OF THIS

SECTION OR AN EQUIVALENT OFFENSE, IS GUILTY OF A FELONY OF THE FOURTH DEGREE. THE COURT SHALL SENTENCE THE OFFENDER TO ALL OF THE FOLLOWING:

(a) A MANDATORY PRISON TERM OF SIXTY CONSECUTIVE DAYS. AN ADDITIONAL PRISON TERM MAY BE IMPOSED. HOWEVER, THE CUMULATIVE PRISON TERM FOR THE OFFENSE SHALL NOT EXCEED EIGHTEEN MONTHS;

(b) NOTWITHSTANDING SECTION 2929.18 OF THE REVISED CODE, A FINE OF NOT LESS THAN SEVEN HUNDRED FIFTY NOR MORE THAN TEN THOUSAND DOLLARS;

(c) A CLASS ONE LICENSE SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. THE COURT MAY GRANT LIMITED DRIVING PRIVILEGES UNDER DIVISION (L) OF THIS SECTION;

(d) CRIMINAL FORFEITURE OF THE VEHICLE INVOLVED IN THE OFFENSE UNDER SECTION 4503.234 OF THE REVISED CODE, IF THE VEHICLE OPERATED BY THE OFFENDER IS REGISTERED IN THE OFFENDER'S NAME;

(e) IN ADDITION, THE COURT MAY ORDER THE OFFENDER TO PARTICIPATE IN AN ALCOHOL AND DRUG ADDICTION PROGRAM, AUTHORIZED BY SECTION 3793.02 OF THE REVISED CODE, SUBJECT TO DIVISION (I) OF THIS SECTION.

(H) **Reinstatement Fees** WHOEVER VIOLATES DIVISION (A) OF THIS SECTION AND LATER SEEKS REINSTATEMENT OF THE LICENSE, PERMIT, OR PRIVILEGES SUSPENDED UNDER THIS SECTION, SHALL PAY A REINSTATEMENT FEE AS PROVIDED IN DIVISION (F)(2) OF SECTION 4511.191 OF THE REVISED CODE.

(I) **Treatment Programs**

(1) NO COURT SHALL SENTENCE AN OFFENDER TO AN ALCOHOL TREATMENT PROGRAM UNDER THIS SECTION UNLESS THE TREATMENT PROGRAM COMPLIES WITH MINIMUM STANDARDS ADOPTED UNDER CHAPTER 3793. OF THE REVISED CODE BY THE DIRECTOR OF ALCOHOL AND DRUG ADDICTION SERVICES.

(2) THE COST OF AN OFFENDER'S STAY IN ANY TREATMENT PROGRAM ORDERED UNDER THIS SECTION SHALL BE PAID BY THE OFFENDER. IF THE COURT DETERMINES THE OFFENDER IS UNABLE TO PAY THE COST OF THE TREATMENT, THE COURT MAY ORDER THAT THE COST BE PAID FROM THE COURT'S INDIGENT DRIVERS' ALCOHOL TREATMENT FUND.

(J) **Underage Penalties** [Supercedes §4507.16(E)] WHOEVER VIOLATES DIVISION (B) OF THIS SECTION IS GUILTY OF OPERATING A VEHICLE AFTER UNDERAGE CONSUMPTION AND SHALL BE PUNISHED AS FOLLOWS:

(1) EXCEPT AS OTHERWISE PROVIDED IN DIVISION (J)(2) OF THIS SECTION, THE OFFENDER IS GUILTY OF A MISDEMEANOR OF THE FOURTH DEGREE. IN ADDITION TO ANY OTHER SANCTION, THE COURT SHALL IMPOSE A CLASS FIVE LICENSE SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE.

(2) IF, WITHIN ONE YEAR OF THE OFFENSE THE OFFENDER HAS PREVIOUSLY BEEN FOUND GUILTY OF ONE OR MORE VIOLATIONS OF DIVISION (B) OF THIS SECTION, OR OF AN EQUIVALENT OFFENSE, THE OFFENDER IS GUILTY OF A MISDEMEANOR OF THE THIRD DEGREE. THE COURT SHALL IMPOSE A CLASS THREE SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE.

(K) **House Arrest** IF, WITHIN SIXTY DAYS OF SENTENCING AN OFFENDER UNDER

DIVISIONS (G)(2)(a) OR (G)(3)(a) OF THIS SECTION, 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 SIXTY-DAY PERIOD FOLLOWING THE DATE OF SENTENCING, THE COURT MAY IMPOSE AN ALTERNATIVE SENTENCE UNDER THIS DIVISION THAT INVOLVES A TERM OF HOUSE ARREST AS DEFINED IN DIVISION (A) OF SECTION 2929.23 OF THE REVISED CODE.

AS AN ALTERNATIVE TO THE MANDATORY JAIL TERM OF TEN CONSECUTIVE DAYS REQUIRED BY DIVISION (G)(2)(a) OF THIS SECTION, THE COURT, UNDER THIS DIVISION, MAY SENTENCE THE OFFENDER TO FIVE CONSECUTIVE DAYS IN JAIL AND NOT LESS THAN EIGHTEEN CONSECUTIVE DAYS OF ELECTRONICALLY MONITORED HOUSE ARREST. TOGETHER, THE FIVE CONSECUTIVE DAYS AND THE PERIOD OF HOUSE ARREST SHALL NOT EXCEED SIX MONTHS. THE FIVE CONSECUTIVE DAYS DO NOT HAVE TO BE SERVED PRIOR TO OR CONSECUTIVELY WITH THE PERIOD OF HOUSE ARREST.

AS AN ALTERNATIVE TO THE MANDATORY JAIL TERM OF THIRTY CONSECUTIVE DAYS REQUIRED BY DIVISION (G)(3)(a) OF THIS SECTION, THE COURT, UNDER THIS DIVISION, MAY SENTENCE THE OFFENDER TO FIFTEEN CONSECUTIVE DAYS IN JAIL AND NOT LESS THAN FIFTY-FIVE CONSECUTIVE DAYS OF ELECTRONICALLY MONITORED HOUSE ARREST. TOGETHER, THE FIFTEEN CONSECUTIVE DAYS AND THE PERIOD OF HOUSE ARREST SHALL NOT EXCEED ONE YEAR. THE FIFTEEN CONSECUTIVE DAYS DO NOT HAVE TO BE SERVED PRIOR TO OR CONSECUTIVELY WITH THE PERIOD OF HOUSE ARREST.

**(L) Driving Privileges; Special Plates** WHEN PERMITTED AS SPECIFIED IN SECTION 4510.13 OF THE REVISED CODE, IF THE COURT GRANTS LIMITED DRIVING PRIVILEGES DURING A LICENSE SUSPENSION IMPOSED UNDER DIVISION (G)(2)(c), (G)(3)(c), (G)(4)(c), OR (G)(5)(c) OF THIS SECTION, THE PRIVILEGES SHALL BE GRANTED ON THE ADDITIONAL CONDITION THAT THE OFFENDER MUST DISPLAY RESTRICTED LICENSE PLATES, ISSUED UNDER SECTION 4503.231 OF THE REVISED CODE, ON THE VEHICLE DRIVEN SUBJECT TO THE PRIVILEGES.

**(M) Fine Distribution** FINES IMPOSED UNDER THIS SECTION SHALL BE DISTRIBUTED AS FOLLOWS:

(1) TWENTY-FIVE DOLLARS OF THE FINE IMPOSED UNDER DIVISION (G)(1)(b), THIRTY-FIVE DOLLARS OF THE FINE IMPOSED UNDER DIVISION (G)(2)(b), ONE HUNDRED TWENTY-THREE DOLLARS THE FINE IMPOSED UNDER DIVISION (G)(3)(b), AND TWO HUNDRED TEN DOLLARS OF THE FINE IMPOSED UNDER DIVISION (G)(4)(b) OR (G)(5)(b) OF THIS SECTION SHALL BE PAID TO AN ENFORCEMENT AND EDUCATION FUND ESTABLISHED BY THE LEGISLATIVE AUTHORITY OF THE LAW ENFORCEMENT AGENCY IN THIS STATE THAT PRIMARILY WAS RESPONSIBLE FOR THE ARREST OF THE OFFENDER, AS DETERMINED BY THE COURT THAT IMPOSES THE FINE. THIS SHARE SHALL BE USED BY THE AGENCY TO PAY ONLY THOSE COSTS IT INCURS IN ENFORCING THIS SECTION OR AN EQUIVALENT OFFENSE AND IN INFORMING THE PUBLIC OF THE LAWS GOVERNING THE OPERATION OF A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, THE DANGER OF SUCH OPERATION, AND OTHER INFORMATION RELATING TO SUCH OPERATION AND THE CONSUMPTION OF ALCOHOLIC BEVERAGES.

(2) TWENTY-FIVE DOLLARS OF THE FINE IMPOSED UNDER DIVISION (B)(1)(b) AND FIFTY DOLLARS OF THE FINE IMPOSED UNDER DIVISION (B)(2)(b) OF THIS SECTION SHALL BE DEPOSITED IN THE COUNTY OR MUNICIPAL INDIGENT DRIVERS' ALCOHOL TREATMENT FUND UNDER THE CONTROL OF THE COURT, AS CREATED BY THE COUNTY OR MUNICIPAL CORPORATION UNDER DIVISION (N) OF SECTION 4511.191 OF THE REVISED CODE.

(3) SIXTY-FIVE DOLLARS OF THE FINE IMPOSED UNDER DIVISION (G)(2)(b), TWO HUNDRED TWENTY-SEVEN DOLLARS OF THE FINE IMPOSED UNDER DIVISION (G)(3)(b), AND THREE HUNDRED NINETY DOLLARS OF THE FINE IMPOSED UNDER DIVISION (G)(4)(b) OR (G)(5)(b) OF THIS SECTION SHALL BE PAID TO THE POLITICAL SUBDIVISION RESPONSIBLE FOR HOUSING THE OFFENDER DURING THE OFFENDER'S TERM OF INCARCERATION. THIS SHARE SHALL BE USED BY THE POLITICAL SUBDIVISION TO PAY OR REIMBURSE INCARCERATION COSTS IT INCURS IN HOUSING PERSONS WHO VIOLATE THIS SECTION OR AN EQUIVALENT OFFENSE, COSTS FOR ANY IMMOBILIZING OR DISABLING DEVICE USED ON THE OFFENDER'S VEHICLE, AND THE COSTS OF ELECTRONIC HOUSE ARREST EQUIPMENT NEEDED FOR PERSONS WHO VIOLATE THIS SECTION.

(4) THE BALANCE SHALL BE DISBURSED AS OTHERWISE PROVIDED BY LAW.

(N) **“Equivalent Offense” Defined** AS USED IN SECTIONS 4511.19 THROUGH 4511.197 OF THE REVISED CODE, “EQUIVALENT OFFENSE” MEANS ANY OF THE FOLLOWING:

(1) A VIOLATION OF DIVISION (A)(2) OF SECTION 2903.06 OR 2903.08 OF THE REVISED CODE [drunken vehicular homicide and assault] IN WHICH A JUDGE OR JURY FOUND THAT THE OFFENDER WAS UNDER THE INFLUENCE OF ALCOHOL, A DRUG OF ABUSE, OR A COMBINATION OF THEM;

(2) A VIOLATION OF A MUNICIPAL ORDINANCE, LAW OF ANOTHER STATE, OR FEDERAL LAW THAT IS SUBSTANTIALLY EQUIVALENT TO THIS SECTION;

(3) A VIOLATION OF A SUBSTANTIALLY EQUIVALENT FORMER VERSION OF THIS SECTION.

(O) **Other Definitions** AS USED IN THIS SECTION, TERMS HAVE THE SAME MEANINGS AS DEFINED IN SECTIONS 4501.01, 4510.01, AND 4511.01 OF THE REVISED CODE.

(P) **Application of Traffic Rules** THE TRAFFIC RULES ADOPTED UNDER SECTION 2937.46 OF THE REVISED CODE SHALL NOT APPLY TO FELONY VIOLATIONS OF THIS SECTION. [A temporary law provision should be added requesting the Supreme Court to modify rules as needed.]

## §4511.191 IMPLIED CONSENT FOR OVI TESTING

[Was §4511.191 except: (C) & (D), which became §4511.192; & (H) & (I), which became §4511.197.]

(A)

(1) **Implied Consent** Any person who operates a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking within this state shall be deemed to have given consent to a chemical test or tests ~~of the person's blood, breath, or urine for the purpose of determining~~ TO DETERMINE the alcohol, drug, or alcohol and drug content of the person's WHOLE blood, BLOOD SERUM OR PLASMA, breath, or urine if arrested for ~~operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine~~ A VIOLATION OF SECTION 4511.19 OF THE REVISED CODE OR AN EQUIVALENT OFFENSE.

(2) **Administration of the Test** The chemical test or tests shall be administered at the request of a ~~police~~ LAW ENFORCEMENT officer having reasonable grounds to believe the person ~~to have been~~ WAS operating a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking in this state ~~while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with~~

~~a prohibited concentration of alcohol in the blood, breath, or urine~~ IN VIOLATION OF SECTION 4511.19 OF THE REVISED CODE OR AN EQUIVALENT OFFENSE. The law enforcement agency by which the officer is employed shall designate which ~~of the~~ TEST OR tests shall be administered.

~~(B)(3)~~ **Those Incapable of Refusing** Any person who is dead or unconscious, or who is otherwise in a condition rendering the person incapable of refusal, shall be deemed ~~not to have withdrawn consent~~ CONSENTED as provided by division (A) of this section and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

~~(E)(B)~~

(1) **Suspension for Refusal** Upon receipt of the sworn report of an arresting officer completed and sent to the registrar and a court pursuant to ~~divisions (D)(1)(c) and (D)(2) of this section 4511.192 OF THE REVISED CODE~~ in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under ~~division (D)(1)(a) of this~~ THAT section and the period of the suspension, as determined under ~~divisions (E)(1)(a) to (d) of this section.~~ The suspension shall be subject to appeal as provided in ~~this section 4511.192 OF THE REVISED CODE.~~ ~~the~~ THE suspension shall be for whichever of the following periods applies:

(a) If the arrested person, within ~~five~~ SIX years of the date on which the person refused the request to consent to the chemical test, had not refused a previous request to consent to SUCH a chemical test ~~of the person's blood, breath, or urine to determine its alcohol content, the period of A CLASS C suspension shall be one year~~ IMPOSED UNDER SECTION 4510.02 OF THE REVISED CODE. ~~If the person is a resident without a license or permit to operate a vehicle within this state, the registrar shall deny to the person the issuance of a driver's or commercial driver's license or permit .~~

(b) If the arrested person, within ~~five~~ SIX years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to SUCH a chemical test ~~of the person's blood, breath, or urine to determine its alcohol content, the period of A CLASS B suspension or denial shall be two years~~ IMPOSED UNDER SECTION 4510.02 OF THE REVISED CODE.

(c) If the arrested person, within ~~five~~ SIX years of the date on which the person refused the request to consent to the chemical test, had refused two OR MORE previous requests to consent to SUCH a chemical test ~~of the person's blood, breath, or urine to determine its alcohol content, the period of A CLASS A suspension or denial shall be three years~~ IMPOSED UNDER SECTION 4510.02 OF THE REVISED CODE.

~~(d) If the arrested person, within five years of the date on which he refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test of his blood, breath, or urine to determine its alcohol content,~~

~~(K)(2)~~ [Was the 1<sup>st</sup> paragraph of current (K).] A suspension of the driver's or commercial driver's license or permit of a resident or ~~a suspension~~ of the operating privileges of a nonresident, or a denial of a driver's or commercial driver's license or permit for refusal to submit to a chemical test to determine the alcohol, drug, or alcohol and drug content of the person's WHOLE blood, BLOOD SERUM OR PLASMA, breath, or urine pursuant to division ~~(E) or (C)~~ ~~(B)(1)~~ of this section, shall terminate by the registrar upon the receipt of notice of the person's entering a plea of guilty to, or of the person's conviction after entering a plea of no contest under Criminal Rule 11, to operating a vehicle ~~while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with a prohibited concentration of alcohol in the blood, breath or urine~~ IN VIOLATION OF SECTION 4511.19 OF THE REVISED CODE OR AN

EQUIVALENT OFFENSE, if the offense for which the plea is entered arose from the same incident that led to the suspension or denial.

~~(F)(C)~~ **Suspension for Positive Test** Upon receipt of the sworn report of an arresting officer completed and sent to the registrar and a court pursuant to ~~divisions (D)(1)(c) and (D)(2) of this section 4511.192 OF THE REVISED CODE~~ in regard to a person whose test results indicate that the person's blood contained a concentration of ten-hundredths of one per cent or more by weight of alcohol, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight AT LEAST THE CONCENTRATIONS of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense SPECIFIED IN DIVISIONS (A)(2), (3), (4), OR (5) OF SECTION 4511.19 OF THE REVISED CODE, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under ~~division (D)(1)(a) of this~~ THAT section and the period of the suspension, as determined under ~~divisions (E)(1)(a) to (d) of this~~ section. The suspension shall be subject to appeal as provided in ~~this section 4511.192 OF THE REVISED CODE.~~ ~~the~~ THE suspension shall be for whichever of the following periods applies:

- (1) Except when ~~divisions (F)(C) (2), (3), or (4) of this section~~ applies and specifies a different period of ~~suspension or denial~~, the period of suspension or denial shall be ninety days.
- (2) If the person has been convicted, within six years of the date the test was conducted, of one violation of division (A) or (B) of section 4511.19 of the Revised Code, ~~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, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that at the time of the commission of the offense the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code~~ AN EQUIVALENT OFFENSE, the period of A CLASS C suspension or denial shall be one year UNDER SECTION 4510.02 OF THE REVISED CODE.
- (3) If the person has been convicted, within six years of the date the test was conducted, of two violations of a statute or ordinance described in ~~division (F)(C)(2) of this section~~, the period of the suspension or denial shall be two years A CLASS B SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE.
- (4) If the person has been convicted, within six years of the date the test was conducted, of more than two violations of a statute or ordinance described in ~~division (F)(C)(2) of this section~~, the period of denial shall be for three years A CLASS A SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE.

~~(G)(D)~~ **Immediate Suspension; Initial Appearance Timing**

- (1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under ~~division (D)(1)(a) of THIS~~ section for the period of time described in ~~division (E) (B) or (F) (C) of this section~~ is effective immediately from the time at which the officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take, ~~or in his taking~~, the chemical test or tests under division

(A) of this section affects the suspension ~~only~~ as described in division ~~(E)(2)~~ (B) OR (C) of this section.

(2) If a person is arrested for operating a vehicle ~~while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or immediately from the time at which the arresting officer for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine and~~ IN VIOLATION OF SECTION 4511.19 OF THE REVISED CODE OR AN EQUIVALENT OFFENSE, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division ~~(E)~~ (B) or ~~(F)~~ (C) of this section or CHAPTER 4510. OF THE REVISED CODE, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to him, subject to any continuance granted by the court pursuant to ~~division (H) of this section~~ 4511.192 OF THE REVISED CODE regarding the issues specified in that ~~division~~ SECTION.

[Divisions (H) & (I) would be stricken. They become 4511.197. Current (J) and the 2<sup>nd</sup> paragraph of (K) would appear both below and in 4511.197.]

~~(J)(E)~~ **Notice of Nonresident Privileges Suspension** [Current (J) becomes (D), without further amendment]

**Credit for Related Suspension** [Was 2<sup>nd</sup> paragraph of (K)] ~~The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to division (E) of section 4507.16 of the Revised Code any time which the person serves a related suspension imposed pursuant to division (B) or (C) of this section.~~

~~(L)(F)~~ **Return of License** At the end of a suspension period under this section, ~~section 4511.196, or division (B) of section 4507.16~~ 2951.17 of the Revised Code and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, ~~revocation~~ CANCELLATION, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the following:

(1) A showing ~~by~~ THAT the person ~~that he~~ had proof of financial responsibility . . . [no further changes].

(2) Payment by the person of a license reinstatement fee TO THE BUREAU OF MOTOR VEHICLES of two hundred and ~~fifty~~ EIGHTY dollars, IF THE PERSON SUBMITTED TO A CHEMICAL TEST UNDER THIS SECTION OR IF THE PERSON REFUSED THE TEST, PLEADED GUILTY OR NO CONTEST, AND WAS FOUND GUILTY OF A VIOLATION OF DIVISION (A) OF SECTION 4511.19 OF THE REVISED CODE, OR FIVE HUNDRED THIRTY DOLLARS, IF THE PERSON REFUSED TO SUBMIT TO THE TEST OR WAS FOUND NOT GUILTY OF SUCH A VIOLATION, ~~to the bureau of motor vehicles, which~~

THE fee shall be deposited in the state treasury and credited as follows:

(a) Seventy-five dollars OF THE AMOUNT PAID BY A PERSON WHO SUBMITTED TO THE TEST AND ONE HUNDRED FIFTY DOLLARS OF THE AMOUNT PAID BY A PERSON WHO REFUSED THE TEST shall be credited to the drivers' treatment and intervention fund, which is hereby established. The fund shall be used to pay the costs of driver treatment and intervention programs . . . [no further changes].

(b) Fifty dollars OF THE AMOUNT PAID BY A PERSON WHO SUBMITTED TO THE TEST AND ONE HUNDRED DOLLARS OF THE AMOUNT PAID BY A PERSON WHO REFUSED THE TEST shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Twenty-five dollars OF THE AMOUNT PAID BY A PERSON WHO SUBMITTED TO THE TEST AND FIFTY DOLLARS OF THE AMOUNT PAID BY A PERSON WHO REFUSED THE TEST shall be credited to the indigent drivers alcohol treatment fund, which is hereby created in the state treasury. Except as otherwise provided in ~~division (H)(2)(e)~~ of this section, moneys in the fund shall be distributed to . . . indigent drivers treatment funds that are required to be established by counties and municipal corporations pursuant to ~~division (J)~~ of this section and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender . . . who is determined by the county, juvenile, or municipal court judge not to have the means to pay for ~~his~~ THE PERSON'S attendance at the program. The department shall retain those moneys in the fund that are not distributed to a county ~~indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (J)~~ of this section. The department may use the amounts so retained for administrative purposes or distribute them to treatment programs.

(d) Fifty dollars OF THE AMOUNT PAID BY A PERSON WHO SUBMITTED TO THE TEST AND ONE HUNDRED DOLLARS OF THE AMOUNT PAID BY A PERSON WHO REFUSED THE TEST shall be credited to the Ohio rehabilitation services commission . . . to match available federal matching funds where appropriate, and for any other purposes or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Fifty dollars OF THE AMOUNT PAID BY A PERSON WHO SUBMITTED TO THE TEST AND ONE HUNDRED DOLLARS OF THE AMOUNT PAID BY A PERSON WHO REFUSED THE TEST shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby created, to be used by the attorney general for the purposes specified in ~~division (H)(2)(e)~~ of this section.

(f) THIRTY DOLLARS OF THE AMOUNT PAID BY A PERSON WHO SUBMITTED TO OR REFUSED THE TEST SHALL BE DEPOSITED INTO THE STATE TREASURY AND CREDITED TO THE BUREAU OF MOTOR VEHICLE FUND CREATED IN SECTION 4501.25 OF THE REVISED CODE.

The attorney general shall use the amount in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement programs in public schools. Grants awarded to a law enforcement agency under ~~division (H)(2)(e)~~ of this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six percent of the amounts ~~his~~ THE office receives under ~~division (H)(2)(e)~~ of this section to pay the costs it incurs in administering the grant program established by ~~division (H)(2)(e)~~ of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs, INCLUDING, BUT NOT LIMITED TO, PERFORMANCE OR IMPLEMENTING STANDARDS.

~~(M)~~(G) **Concurrent CDL Suspension** Suspension of a commercial driver's license under ~~division (E) or (F)~~ (B) of this section shall be concurrent with any period of disqualification under section 2301.374 or 4506.16 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section ~~4506.16~~ 4511.19 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under ~~division (E) (B) or (F) (C)~~ (B) of this section, ~~and no~~. NO person whose commercial driver's license is suspended under ~~division (E)~~

~~(B)~~ or ~~(F)~~ ~~(C)~~ of this section shall be issued a driver's license under that chapter during the period of the suspension.

~~(N)~~~~(H)~~ **Indigent Drivers' Funds** [Aside from changing internal cross-references to reflect other changes in this proposal, this division would not change.]

## **§4511.192 OVI ARRESTING OFFICER'S DUTIES; PRESUMPTION ON REFUSAL**

[Was §4511.191(C) & (D)]

~~(A)~~ — No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under section 4511.191 or 4511.196 of the Revised Code shall operate a vehicle upon the highways or streets within this state. [Repeats general DUS law in new 4510.11.]

~~(B)~~ — It is an affirmative defense to any prosecution brought pursuant to this section that the alleged offender drove under suspension because of a substantial emergency, provided that no other person was reasonably available to drive in response to the emergency. [The affirmative defense for emergency driving would move to 4510.04.]

[Existing 4511.191(C) & (D) is shown in lower case, although not part of current 4511.192.]

~~(C)~~

~~(1)~~ — Any person under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine shall be advised at a police station, or at a hospital, first-aid station, or clinic to which the person has been taken for first-aid or medical treatment, of both of the following:

~~(a)~~ — The consequences, as specified in division ~~(E)~~ of this section, of the person's refusal to submit upon request to a chemical test or tests designated by the law enforcement agency as provided in division ~~(A)~~ of this section 4511.191 of the Revised Code;

~~(b)~~ — The consequences, as specified in division ~~(F)~~ of this section, of the person's submission to the designated chemical test or tests if the person is found to have a prohibited concentration of alcohol in the blood, breath, or urine.

~~(2)~~~~(a)~~~~(A)~~ **Reading and Witnessing the Form** [Was §4511.191(C)(2)(a)] The advice given pursuant to ~~division (C)(1)~~ of this section shall be in a written form containing the information described in division ~~(e)~~~~(2)~~~~(b)~~ ~~(B)~~ of this section and shall be read to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person in the presence of BY the arresting officer and either another police officer, a civilian police employee, or an employee of a hospital, first-aid station, or clinic, if any, to which the person has been taken for first-aid or medical treatment. The witnesses READING OF THE FORM SHALL BE WITNESSED AND THE WITNESS shall certify to this fact by signing the form.

~~(b)~~~~(B)~~ **The "Consequences" Form** [Was §4511.191(C)(2)(b)] The form required by division ~~(C)~~~~(2)~~~~(a)~~ of this section shall read as follows: ANY PERSON UNDER ARREST FOR A VIOLATION OF SECTION 4511.19 OF THE REVISED CODE, OR FOR A SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE, SHALL BE READ THE FOLLOWING FORM:

"You now are under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or both alcohol and a drug of abuse and will be requested by a police officer to submit to a chemical test to determine the concentration of alcohol, drugs of abuse, or alcohol and drugs of abuse in your blood, breath, or urine. IF YOU TAKE ANY CHEMICAL TEST OR TESTS REQUIRED UNDER SECTION 4511.191 OF THE REVISED CODE AND ARE FOUND

TO BE AT OR OVER THE PROHIBITED AMOUNT SET BY LAW, YOU WILL BE SUBJECT TO AT LEAST THE FOLLOWING:

- (1) IMMEDIATE SUSPENSION OF YOUR PRIVILEGE TO OPERATE A VEHICLE IN OHIO;
- (2) PAYMENT OF A REINSTATEMENT FEE.

If you refuse to submit to the requested TAKE ANY REQUIRED test OR TESTS, or if you submit to the requested test and are found to have a prohibited concentration of alcohol in your blood, breath, or urine, your driver's license or commercial driver's license or permit or nonresident operating privilege immediately will be suspended for the period of time specified by law by the officer, on behalf of the registrar of motor vehicles. You may appeal this suspension at your initial appearance before the court that hears the charges against you resulting from the arrest, any your initial appearance will be conducted no later than five days after the arrest. This suspension is independent of the penalties for the offense, and you may be subject to other penalties upon conviction—YOU WILL BE SUBJECT TO AT LEAST THE FOLLOWING:

- (1) A PRESUMPTION THAT YOU WERE UNDER THE INFLUENCE AT THE TIME YOU WERE OPERATING THE VEHICLE;
- (2) IMMEDIATE SUSPENSION OF YOUR PRIVILEGE TO OPERATE A VEHICLE IN OHIO;
- (3) PAYMENT OF A SUBSTANTIALLY HIGHER REINSTATEMENT FEE."

THE OFFICER ALSO SHALL TELL THE PERSON THAT THE PERSON MAY HAVE AN INDEPENDENT CHEMICAL TEST TAKEN AT THE PERSON'S EXPENSE.

~~(D)(4)(C)~~ **License Seizure When Not Tested** [Was §4511.191(D)(1), 1<sup>st</sup> par.] If a person under arrest as described in ~~division (C)(1) of this section~~ is not asked by a police LAW ENFORCEMENT officer to submit to a chemical test OR TESTS ~~designated as provided in division (A) of this~~ UNDER section 4511.191 OF THE REVISED CODE, the arresting officer shall seize the Ohio or out of state driver's or commercial driver's license or permit of the person and immediately forward the seized license or permit IT to the court in which the arrested person is to appear on the charge for which the person was arrested. If the arrested person does not have the person's driver's or commercial driver's license or permit on his or her person or in his or her vehicle, the arresting officer shall order the arrested person to surrender it to the law enforcement agency that employs the officer within twenty-four hours after the arrest, and, upon the surrender, the ~~officer's employing agency~~ immediately shall forward the license or permit to the court in which the arrested person is to appear on the charge for which the person was arrested. Upon receipt of the license or permit, the court shall retain it pending the initial appearance of the arrested person and any action taken under 4511.196 of the Revised Code.

~~(D)~~ **License Seizure When Test is Refused or Failed** [Was the rest of §4511.191(D)(1)] If a THE person under arrest as described in ~~division (C)(1) of this section~~ is asked by a police LAW ENFORCEMENT officer to submit to a chemical test OR TESTS ~~designated as provided in division (A) of this~~ UNDER section 4511.191 OF THE REVISED CODE, and is IF THE OFFICER advised THE PERSON of the consequences of the person's refusal or submission as provided in ~~division (C) of this section~~, and if the person either refuses to submit to the ~~designated~~ chemical test OR TESTS or the person submits to the ~~designated~~ chemical test and the test results indicate that the person's blood contained a PROHIBITED concentration of ten-hundredths of one per cent or more by weight of alcohol IN THE PERSON'S BLOOD, BLOOD SERUM OR PLASMA, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense, the arresting officer shall do all of the following:

- ~~(a)(1)~~ **License Suspension** On behalf of the registrar, ~~serve a notice of the suspension upon the person that advises NOTIFY~~ the person that, independent of any other penalties or sanctions ~~imposed upon the person pursuant to any other section of~~

~~the Revised Code or any other municipal ordinance, the person's OHIO driver's or commercial driver's license or permit or nonresident operating privilege is suspended, that the suspension takes effect immediately, that the suspension will last at least until the person's initial appearance on the charge that will be held within five days after the date of the person's arrest or the issuance of a citation to the person, and that the person may appeal the suspension at the initial appearance BUT NO LATER THAN THIRTY DAYS AFTER THAT APPEARANCE;~~

~~(2) License Seizure~~ seize SEIZE the ~~Ohio or out-of-state driver's or commercial driver's license or permit of the person; and immediately forward the seized license or permit~~ IT to the registrar. If the arrested person does not have the person's ~~driver's or commercial driver's license or permit on his or her person or in his or her vehicle,~~ the arresting officer shall order the person to surrender it to the law enforcement agency that employs the officer within twenty-four hours after ~~the service of the~~ GIVING notice of THE suspension, and upon the surrender, the officer's employing agency immediately shall forward the license or permit to the registrar.

~~(b)(3) Verify~~ Verify the current residence of the person and, if it differs from that on the person's ~~driver's or commercial driver's license or permit,~~ notify the registrar of the change;

~~(e)(4) Report~~ In addition to forwarding the arrested person's ~~driver's or commercial driver's license or permit to the registrar,~~ send SEND to the registrar, within forty-eight hours after the arrest of the person, a sworn report that includes all of the following statements:

~~(i)(a)~~ That the officer had reasonable grounds to believe that, at the time of the arrest, the arrested person was operating a vehicle ~~upon a highway or public or private property used by the public for vehicular travel or parking within this state while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse with a prohibited concentration of alcohol in the blood, breath, or urine~~ IN VIOLATION OF SECTION 4511.19 OF THE REVISED CODE;

~~(ii)~~ That the person was arrested and charged with ~~operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine~~ THE OFFENSE;

~~(iii)(c)~~ That the officer asked the person to take the designated chemical test OR TESTS, advised the person of the consequences of submitting to, ~~the~~ ~~chemical test or refusing to take,~~ the chemical test OR TESTS, and gave the person the form described in division ~~(C)(2)~~ (B) of this section;

~~(iv)(d)~~ That the person refused to submit to the chemical test OR TESTS or ~~that the person submitted to the chemical test and the test results indicate the person's blood contained a PROHIBITED concentration of ten-hundredths of one percent or more by weight of alcohol IN THE PERSON'S BLOOD, BLOOD SERUM OR PLASMA, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense;~~

~~(v)~~ That the officer served a notice of suspension upon the person as described in division ~~(D)(1)(a)~~ of this section.

~~(2)(E) Copy of Report to Arrestee~~ [Was §4511.191(D)(2)] The sworn report of an arresting officer completed under ~~division (D)(4)(e)~~ of this section shall be given by the officer to the arrested person . . . [no further changes].

~~(3)(F) Report as Prima Facie Proof~~ [Was §4511.191(D)(3)] The sworn report of an arresting officer completed UNDER THIS SECTION ~~and sent to the registrar and the court~~

~~under divisions (D)(1)(c) and (D)(2) of this section~~ is prima facie proof of the information and statements that it contains. IT and shall be admitted and considered as prima facie proof of the information and statements that it contains in any appeal under ~~division (H) of this section~~ 4511.197 OF THE REVISED CODE relative to any suspension of a person's driver's or commercial driver's license, or permit or nonresident operating privilege that results from the arrest covered by the report.

### **§4511.193 IMMOBILIZATION, FORFEITURE, IMPOUNDMENT, ETC.**

[Make technical changes to refer to serum and plasma in (A) & (B)(1), to strike references to §2903.04 & 2903.07 in (B)(2), and to refer to municipal ordinances similar to "former" §2903.07.]

\* \* \*

(B)

(2) **Immobilization & Plates' Impoundment** If a person is convicted of or pleads guilty to a municipal ordinance relating to the operating a vehicle while under the influence of alcohol, a drug of abuse, or combination of them or relating to operating a vehicle with a prohibited concentration of alcohol in the WHOLE blood, BLOOD SERUM OR PLASMA, breath, or urine and if, within the period of time specified in division (B)(2)(a), (b), or (c) of this section, the offender has been convicted of or pleaded guilty to any violation of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the WHOLE blood, BLOOD SERUM OR PLASMA, breath, or urine, ~~section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section,~~ DIVISION (A)(1) OF section 2903.06, ~~2903.07,~~ or 2903.08 of the Revised Code, or a municipal ordinance that is substantially similar to FORMER section 2903.07 of the Revised Code in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) ~~or (B)~~ of section 4511.19 of the Revised Code, or if the other circumstances described in division (B)(2)(c) of this section apply, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, ~~regardless of whether the vehicle the offender was operating at the time of the offense~~ is IF THE VEHICLE THE OFFENDER WAS OPERATING AT THE TIME OF ARREST IS registered in the NAME OF THE OFFENDER ~~offender's name or in the name of another person, and subject to section 4503.235 of the Revised Code,~~ shall do whichever of the following is applicable:

(a) Except as otherwise provided in division (B)(2)(c) of this section, if, within six years of the current offense, the offender has been convicted of or pleaded guilty to one violation described in division (B)(2) of this section, the court shall order the immobilization for ninety days of the vehicle ~~the offender was operating at the time of the offense~~ and the impoundment for ninety days of the license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with section 4503.233 of the Revised Code.

(b) Except as otherwise provided in division (B)(2)(c) of this section, if, within six years of the current offense, the offender has been convicted of or pleaded guilty to two violations described in division (B)(2) of this section, the court shall order the immobilization for one hundred eighty days of the vehicle ~~the offender was operating at the time of the offense~~ and the impoundment for one hundred eighty days of the license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with section 4503.233 of the Revised Code.

(c) **Forfeiture** If, within six years of the current offense, the offender has been convicted of or pleaded guilty to three or more violations described in division (B)(2) of this section, or if the offender previously has been convicted of or pleaded guilty to a violation of division (A) of section 4511.19 of the Revised Code under circumstances in which the violation was a felony and regardless of when the violation and the conviction or guilty plea occurred, the court shall order the criminal forfeiture to the state of the vehicle ~~the offender was operating at the time of the offense~~. The order of criminal forfeiture shall be issued and enforced in accordance with section 4503.234 of the Revised Code.

#### **§4511.194 PHYSICAL CONTROL**

(A) **Offense** NO PERSON SHALL BE IN ACTUAL PHYSICAL CONTROL OF A STATIONARY VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, A DRUG OF ABUSE, OR A COMBINATION OF THEM.

(B) **Penalty** WHOEVER VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR OF THE FIRST DEGREE. IN ADDITION TO OTHER SANCTIONS, THE COURT MAY IMPOSE A CLASS SIX SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE.

(C) **Definition** AS USED IN THIS SECTION, "ACTUAL PHYSICAL CONTROL" MEANS A PERSON IS IN THE DRIVER'S POSITION OF THE FRONT SEAT OF A VEHICLE WITH THE IGNITION KEY OR OTHER IGNITION DEVICE IN THE PERSON'S POSSESSION.

#### **§4511.195 SEIZURE OF VEHICLES UPON ARREST**

(A) **Definitions** As used in this section:

\* \* \*

(3) "Municipal ~~OMV~~ OVI ordinance" means any municipal ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or ~~alcohol and a drug of abuse~~ A COMBINATION OF THEM or prohibiting the operation of a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine.

(B) **Vehicle Seizure**

(1) If a person is arrested for a violation of division (A) of section 4511.19 of the Revised Code or of a municipal ~~OMV~~ OVI ordinance and, within ~~five~~ SIX years of the alleged violation, the person previously has been ~~convicted of or pleaded~~ FOUND guilty ~~to~~ OF one or more violations of division (A) ~~or (B)~~ of section 4511.19 of the Revised Code, a municipal ~~OMVI~~ ordinance AN EQUIVALENT OFFENSE, OR ~~section 2903.04 of the Revised Code in a case in which the was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse . . .~~, the arresting officer or another officer of the law enforcement agency that employs the arresting officer, in addition to any action that the arresting officer is required or authorized to take by section 4511.19 OR 4511.191 of the Revised Code or by any other provision of law, shall seize the vehicle ~~that the person was operating~~, IF REGISTERED IN THE NAME OF THE PERSON at the time of the alleged offense, and its identification license plates. ~~Except as otherwise provided in this division, the officer shall seize the vehicle and license plates under this division regardless of whether the vehicle is registered in the name of the person who was operating it or in the name of another person. This section does not apply to or affect any rented or leased vehicle that is being rented or~~

~~leased for a period of thirty days or less . . . [the rest of this division, protecting innocent owners, should be repealed as no longer be necessary].~~

(2) The arresting officer or a law enforcement officer of the agency that employs the arresting officer shall give written notice of the seizure to the court that will conduct the initial appearance of the ~~vehicle operator~~ ARRESTED PERSON on the charges against him arising out of the arrest. ~~The notice shall be given when the charges are filed against the vehicle operator.~~ Upon receipt of the notice, the court promptly shall determine whether the PERSON IS THE vehicle operator and ~~whether there are any liens recorded on the certificate of title to the vehicle.~~ If the court determines that the vehicle operator is not the vehicle owner, it promptly shall send ~~or deliver written~~ notice of the seizure to the vehicle REGISTERED owner OF THE VEHICLE and to all lienholders recorded on the certificate of title. ~~The written notice to the vehicle owner shall contain all of the information required by division (B)(1) of this section to be in a notice to be given to the vehicle operator and also shall specify the date, time, and place of the vehicle operator's initial appearance. . . .~~

The written notice that is given to the ~~vehicle operator or is sent or delivered to the vehicle owner if the vehicle owner is not the vehicle operator also~~ ARRESTED PERSON shall state that if the ~~vehicle operator pleads~~ PERSON IS FOUND guilty ~~to or is convicted~~ of the offense for which the ~~vehicle owner was arrested~~ and the court issues an immobilization and impoundment order relative to that vehicle, division (D)(4) of section 4503.233 of the Revised Code prohibits the vehicle from being sold during the period of immobilization without prior approval of the court.

~~Any such~~ THE notice also shall state that if title to a motor vehicle . . . [no further changes].

[Relevant parts of (B)(3) & (4) would be amended to conform, the rest would be repealed.]

(C)

(1) **Storage** A vehicle ~~that is seized and towed~~ under division (B) of this section shall be safely kept at the place to which it is towed or otherwise moved by the law enforcement agency that employs the arresting officer until the initial appearance of the ~~vehicle operator~~ ARRESTED PERSON relative to the charge that the ~~vehicle operator~~ PERSON violated division (A) of section 4511.19 OR 4511.191 of the Revised Code or the municipal ~~OMV~~ OVI ordinance. A vehicle that is seized and immobilized under division (B) of this section shall remain immobilized until the initial appearance of the ~~vehicle operator~~ ARRESTED PERSON relative to the charge in question. In either case, the identification license plates of the vehicle that are removed pursuant to division (B) of this section shall be safely kept by the law enforcement agency that employs the arresting officer until the initial appearance of the ~~vehicle operator~~ ARRESTED PERSON relative to the charge in question.

(2) **Motion to Release**

(a) At the initial appearance, the court shall inform the ~~vehicle owner or a~~ ARRESTED person ~~acting on his behalf~~ that if a vehicle is immobilized under division (A) of section 4503.233 of the Revised Code, seven days after the end of the period of immobilization, a law enforcement agency will send the PERSON ~~owner~~ a notice, informing the ~~vehicle owner~~ PERSON that if the ~~vehicle owner~~ PERSON does not obtain the release of the vehicle in accordance with division (D)(3) of that section, the vehicle shall be forfeited. The court also shall inform the ~~owner or a person acting on the vehicle owner's behalf~~ that the ~~vehicle owner~~ PERSON may be charged expenses or charges incurred under this section or section 4503.233 of the Revised Code in the removal and storage of the vehicle. The ~~vehicle owner or a person acting on his behalf~~ may file a motion requesting the court to order that the vehicle and its identification license plates be returned or released to the movant. Except as provided in this division or division (C)(2)(b) of this section, if such a motion is filed, the court, at the conclusion of the initial appearance and in its discretion,

may issue an order requiring that the vehicle and its identification license plates be returned or released to the movant. ~~If the vehicle operator is not the vehicle owner and the vehicle owner . . . [the rest of the division, protecting innocent parties would be repealed as no longer necessary]~~

~~If, in any case,~~ the court issues an order returning the vehicle and its identification license plates to the movant, the order shall indicate that the ~~vehicle owner or a person acting on his behalf~~ shall bring the vehicle and its identification license plates to the court on the day on which the charges against the ~~vehicle operator~~ PERSON are to be resolved and that, if the ~~vehicle operator~~ PERSON is convicted of or pleads guilty to the violation of division (A) of section 4511.19 of the Revised Code or the municipal ~~OMV~~ OVI ordinance with which the PERSON is charged, the court, ~~subject to section 4503.235 of the Revised Code,~~ will issue an order for the immobilization of the vehicle and the impoundment of its license plates under section 4503.233 and section 4511.193 of the Revised Code, or for the criminal forfeiture to the state of the vehicle under section 4503.234 and section 4511.193 of the Revised Code. If the court issues an order for the return or release of a vehicle and its identification license plates under this division, the order shall be given to the movant. If the ~~vehicle owner or a person acting on his behalf~~ presents the order for the return or release of the vehicle and license plates to the law enforcement agency that towed and is keeping the vehicle or that immobilized the vehicle, the agency promptly shall return or release the vehicle and its identification license plates to the person presenting the order SUBJECT TO PAYMENT OF REASONABLE FEES FOR TOWING AND STORAGE.

(b) If, at the initial appearance, the ~~vehicle operator~~ ARRESTED PERSON pleads guilty to the violation of division (A) of section 4511.19 of the Revised Code or of the municipal ~~OMV~~ OVI ordinance or pleads no contest to and is convicted of the violation, the court shall impose sentence upon the ~~vehicle operator~~ PERSON as provided by law or ordinance; the court, ~~except as provided in this division and subject to section 4503.235 of the Revised Code,~~ shall order the immobilization of the vehicle and the impoundment of its identification license plates under section 4503.233 and section 4511.193 of the Revised Code, or the criminal forfeiture to the state of the vehicle under section 4503.234 and section 4511.193 of the Revised Code, whichever is applicable; and the vehicle and its identification license plates shall not be returned or released to the ~~vehicle owner~~ PERSON under division (C)(2)(a) of this section. ~~If the vehicle operator is not the vehicle owner and the vehicle owner . . . [the rest of the division, protecting innocent parties would be repealed as no longer necessary]~~

(c) If, at the initial appearance, the charge that the ~~vehicle operator~~ ARRESTED PERSON violated division (A) of section 4511.19 of the Revised Code or the municipal ~~OMV~~ OVI ordinance is dismissed for any reason, the court shall order that the vehicle seized at the time of the arrest and its identification license plates immediately be returned or released to the ~~vehicle owner subject to the payment of expenses or charges incurred in the removal and storage of the vehicle~~ PERSON.

(D) **Upon Conviction, Innocence, or Dismissal**

(1) If a vehicle is AND ITS IDENTIFICATION LICENSE PLATES ARE seized under division (B) of this section, if at the initial appearance the ~~vehicle operator~~ ARRESTED PERSON does not plead guilty or no contest to the violation of division (A) of section 4511.19 of the Revised Code or the municipal ~~OMV~~ OVI ordinance with which ~~he~~ THE PERSON is charged, and if the vehicle and its identification license plates are not returned or released to the ~~vehicle owner or a person acting on his behalf~~ pursuant to division (C) of this section, the vehicle or its license plates shall be retained or the

vehicle shall remain under immobilization and its license plates shall be retained until the final disposition of the charge in question. Upon the final disposition of that charge, the court shall do whichever of the following is applicable:

(a) If the ~~vehicle operator~~ PERSON is convicted of or pleads guilty to the violation of division (A) of section 4511.19 of the Revised Code or of the municipal ~~OMV~~ OVI ordinance, the court shall impose sentence upon the ~~vehicle operator~~ PERSON as provided by law or ordinance and, ~~subject to section 4503.235 of the Revised Code,~~ shall order the immobilization of the vehicle and the impoundment of its identification license plates under section 4503.233 and section 4511.193 of the Revised Code, or the criminal forfeiture to the state of the vehicle under section 4503.234 and section 4511.193 of the Revised Code, whichever is applicable.

(b) If the ~~vehicle operator~~ PERSON is found not guilty of the violation of division (A) of section 4511.19 of the Revised Code or of the municipal ~~OMV~~ OVI ordinance, the court shall order that the vehicle and its identification license plates immediately be returned or released to the ~~vehicle owner or a person acting on his behalf.~~

(c) If the charge that the ~~vehicle operator~~ PERSON violated division (A) of section 4511.19 of the Revised Code or the municipal ~~OMV~~ OVI ordinance is dismissed for any reason, the court shall order that the vehicle and its identification license plates immediately be returned or released to the ~~vehicle owner or a person acting on his behalf.~~

(d) IF THE IMPOUNDMENT OF THE VEHICLE WAS NOT AUTHORIZED BY THIS SECTION, THE COURT SHALL ORDER THAT THE VEHICLE AND ITS IDENTIFICATION PLATES BE RETURNED IMMEDIATELY TO THE PERSON AND ORDER THAT THE STATE OR POLITICAL SUBDIVISION OF THE LAW ENFORCEMENT AGENCY THAT SEIZED THE VEHICLE PAY ALL TOWING AND STORAGE FEES.

(2) If a vehicle and its identification license plates are seized under division (B) of this section, if at the initial appearance the ~~vehicle operator~~ ARRESTED PERSON does not plead guilty or no contest to the violation of division (A) of section 4511.19 of the Revised Code or of the municipal ~~OMV~~ OVI ordinance with which ~~he~~ THE PERSON is charged, and if the vehicle and its identification license plates are returned or released to the ~~vehicle owner or a person acting on his behalf~~ pursuant to division (C) of this section, the ~~vehicle owner or a person acting on his behalf~~ shall bring the vehicle and its identification license plates to the proceeding at which final disposition is to be made of the charge in question. If the ~~vehicle operator~~ PERSON is convicted of or pleads guilty to the violation of division (A) of section 4511.19 of the Revised Code or of the municipal ~~OMV~~ OVI ordinance, the court shall impose sentence upon the ~~vehicle operator~~ PERSON as provided by law or ordinance and, subject to section 4503.235 of the Revised Code, shall order the immobilization of the vehicle the ~~vehicle operator~~ PERSON was operating at the time of the offense and the impoundment of its license plates under section 4503.233 and section or ~~4544.99~~ 4511.193 of the Revised Code, or the criminal forfeiture to the state of the vehicle under section 4503.234 and section 4511.193 or ~~4544.99~~ of the Revised Code, whichever is applicable.

(E) **Credit** If a vehicle is seized under division (B) of this section, the time between the seizure of the vehicle and either its release to the ~~vehicle owner or a~~ ARRESTED person ~~acting on his behalf~~ under division (C) of this section or the issuance of an order of immobilization of the vehicle and the impoundment of its license plates under section 4503.233 and section 4511.193 of the Revised Code shall be credited against the period of immobilization ordered by the court.

(F) **Costs** If a vehicle is seized under division (B) of this section and if, in any of the circumstances described in division (C) or (D) of this section, the ~~vehicle operator~~ ARRESTED

PERSON is convicted of or pleads guilty to the violation of division (A) of section 4511.19 of the Revised Code or the municipal ~~OMVI~~ OVI ordinance with which the ~~vehicle owner~~ PERSON was charged, the court may require the ~~vehicle owner~~ PERSON to pay the actual cost of any public or private entity transporting the vehicle after the seizure and the actual cost of any public or private entity storing the vehicle after the seizure.

The ~~vehicle owner~~ ARRESTED PERSON may be charged expenses or charges incurred in the removal and storage of the immobilized vehicle. . . . [no further changes, except to change "vehicle owner" to "person"].

## **§4511.196 INITIAL OVI APPEARANCE**

(A) **Timing** If a person is arrested for operating a vehicle ~~while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine~~ IN VIOLATION OF SECTION 4511.19 OF THE REVISED CODE OR AN EQUIVALENT OFFENSE, and regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under ~~division (E) or (F) of section 4511.19~~ 4511.194 of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to him, ~~subject to any continuance granted by the court pursuant to division (H)(1) of section 4511.191 of the Revised Code~~ PERSON.

### **(B) Public Safety Suspension**

(1) If a person is arrested as described in division (A) of this section, if the person's driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under ~~division (E) or (F) of section 4511.194~~ 4511.19 of the Revised Code in relation to that arrest, if the person ~~at his initial appearance on the charge resulting from the arrest~~ appeals the suspension in accordance with ~~division (H)(1) of that section 4511.197~~ OF THE REVISED CODE, and if the judge, referee, or mayor at the initial appearance terminates the suspension in accordance with ~~division (H)(2) of that section~~, the judge, referee, or mayor at the initial appearance may impose a new suspension of the person's license, permit, or ~~nonresident operating~~ privilege, notwithstanding the termination of the suspension imposed under ~~division (E) or (F) of section 4511.194 of the Revised Code~~, if the judge, referee, or mayor determines at the initial appearance that the person's continued driving will be a threat to public safety.

(2) If a person is arrested as described in division (A) of this section and if the person's driver's or commercial driver's license or permit or nonresident operating privilege has not been suspended under ~~division (E) or (F) of section 4511.194~~ 4511.19 of the Revised Code in relation to that arrest, the judge, referee, or mayor ~~at the person's initial appearance on the charge resulting from the arrest~~ may impose a new suspension of the person's license, permit, or nonresident operating privilege if the judge, referee, or mayor determines ~~at the initial appearance~~ that the person's continued driving will be a threat to public safety.

(C) **Duration** A suspension of a person's driver's or commercial driver's license or permit ~~or nonresident operating privilege~~ under division (B)(1) or (2) of this section shall be imposed ~~at the person's initial appearance on the charge resulting from the arrest~~ and shall continue until the complaint on the charge resulting from the arrest is adjudicated on the merits ~~by the judge or referee of the trial court or the mayor of the mayor's court~~. A court that imposes a suspension under division (B)(2) of this section shall send the person's driver's license or permit to the registrar. If the court possesses the ~~driver's or commercial driver's~~ license or permit of a person in the category described in division (B)(2) of this section and the court does not impose a suspension under division (B)(2) of this section, the court shall return the license or permit to the person IF THE LICENSE OR PERMIT HAS NOT OTHERWISE BEEN SUSPENDED.

Any time during which the person serves a suspension of his driver's or commercial driver's THE PERSON'S license, or permit, or nonresident operating privilege that is imposed pursuant to division (B)(1) or (2) of this section shall be credited against any judicial suspension of his THE PERSON'S license, permit, or nonresident operating privilege that is imposed pursuant to ~~division (B) of section 4507.16~~ CHAPTER 4510. of the Revised Code. . . . [no further changes].

## **§4511.197 A.L.S. APPEAL PROCEDURE**

[Was §§4511.191(H) & (I) & 4507.18]

~~(H)(1)(A)~~ **Right to Appeal** [Was §4511.191(H)] If a person is arrested for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse IN VIOLATION OF SECTION 4511.19 OF THE REVISED CODE OR AN EQUIVALENT OFFENSE and if the person's driver's or commercial driver's license or permit or nonresident operating privilege is suspended under ~~division (E) or (F)~~ UNDER section ~~4511.19~~ 4511.191 of the Revised Code, the person may appeal the suspension WITHIN THIRTY DAYS from the date of the person's initial appearance OR ARRAIGNMENT on the charge resulting from the arrest in the court in which the person will appear on that charge. [Repeal the rest of this division.]

\* \* \*

If the person appeals the suspension at the person's initial appearance, either the person or the registrar may request a continuance of the appeal. ~~Either the person or the registrar shall make the request for a continuance of the appeal at the same time as the making of the appeal. If either the person or the registrar requests a continuance of the appeal, AND the court may grant the continuance. The court also may continue the appeal on its own motion. The granting of a continuance applies . . . [The rest of the paragraph would be repealed].~~

**(B) Jurisdiction** THE APPEAL SHALL BE FILED IN THE MUNICIPAL, COUNTY, JUVENILE, OR MAYOR'S COURT THAT HAS JURISDICTION OVER THE CHARGE UNLESS ANOTHER COURT OF RECORD HAS OBTAINED JURISDICTION OVER THE CHARGE.

**(C) Scope of Appeal** [Was 3<sup>rd</sup> par., et seq. of §4511.191(H)(1)] If the person appeals the suspension, the scope of the appeal is limited to determining whether one or more of the following conditions have not been met:

~~(a)~~**(1)** Whether the law enforcement officer had reasonable ground to believe the arrested person was operating a vehicle upon a highway or public or private property used by the public for vehicular travel or parking within this state while under the influence of alcohol, a drug of abuse, or ~~alcohol and a drug of abuse~~ A COMBINATION OF THEM or with a prohibited concentration of alcohol in the WHOLE blood, BLOOD SERUM OR PLASMA, breath, or urine and whether the arrested person was in fact placed under arrest;

~~(b)~~**(2)** Whether the law enforcement officer requested the arrested person to submit to the chemical test or tests designated pursuant to division (a) of this section;

~~(c)~~**(3)** Whether the arresting officer informed the arrested person of the consequences of refusing to be tested after the person initially refused the test or tests requested by the law enforcement officer;

~~(d)~~**(4)** Whichever of the following is applicable:

~~(i)~~**(a)** Whether the arrested person refused to submit to the chemical test or tests requested by the officer;

~~(ii)~~**(b)** Whether the chemical test results indicate that the person's WHOLE blood contained a concentration of ten-hundredths of one per cent or more by weight of alcohol, THE PERSON'S BLOOD SERUM OR PLASMA CONTAINED A CONCENTRATION OF TWELVE-HUNDREDTHS OF ONE PER CENT OR MORE BY WEIGHT OF ALCOHOL, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of breath, or the person's urine contained a concentration

of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of urine at the time of the alleged offense.

~~(2)(D) **Burden of Proof** [Was §4511.191(H)(2)] If the person appeals the suspension at the initial appearance, the judge or referee of the court or the mayor of the mayor's court shall determine whether one or more of the conditions specified in divisions (H)(1)(a) to (d) of this section have not been met. The person who appeals the suspension has the burden of proving, by a preponderance of the evidence, that one or more of the specified conditions has not been met. If during the appeal at the initial appearance the judge or referee of the court or the mayor of the mayor's court determines that all of those conditions have been met, the judge, referee, or mayor shall uphold the suspension, shall continue the suspension, and shall notify the registrar of the decision on a form approved by the registrar. Except as otherwise provided in this section, if the suspension is upheld or if the person does not appeal the suspension at his initial appearance the suspension shall continue until the complaint alleging the violation for which the person was arrested and in relation to which the suspension was imposed is adjudicated on the merits by the judge or referee of the trial court or by the mayor of the mayor's court OR TERMINATED PURSUANT TO LAW. If the suspension was imposed under division (E) (B)(1) of this section 4511.191 OF THE REVISED CODE and it is continued under this division SECTION, any subsequent finding that the person is not guilty of the charge that resulted in being requested to take the chemical test or tests under division (A) of this section 4511.191 OF THE REVISED CODE does not terminate or otherwise affect the suspension. If the suspension was imposed under division (F) of this section FOR A MISDEMEANOR VIOLATION OF SECTION 4511.19 OF THE REVISED CODE and it is continued under this division section, the suspension shall terminate if, for any reason, the person subsequently is found not guilty of the charge that resulted in taking the chemical test or tests under division (A) of this section.~~

If during the appeal at the initial appearance, the judge or referee of the trial court or the mayor of the mayor's court determines that one or more of the conditions specified in divisions (H)(1)(a) to (d) DIVISION (C) of this section have not been met, the judge, referee, or mayor shall terminate the suspension . . . and, except as provided in division (B) of section 4511.196 of the Revised Code, shall . . . take such measures as may be necessary, if the license or permit was destroyed under section 4507.55 4510.53 of the Revised Code, to permit the person to obtain a replacement driver's or commercial driver's license or permit from the registrar or a deputy registrar in accordance with that section. The court also shall issue to the person a court order, valid for not more than ten days from the date of issuance, granting operating privileges for that period of time.

~~(E) **Timing of Filing** [Was §4511.191(I)(1)] If a person's driver's or commercial driver's license or permit or nonresident operating privilege has been suspended pursuant to division (E) of this section, and the person, within the preceding six years, has been convicted of or pleaded guilty to three or more violations of division (a) or (b) of section 4511.19 or 4511.191 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the person was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the person was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of any other state or municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, the person is not entitled to request, and the court shall not grant to the person, limited driving privileges under this division. Any person whose driver's or commercial driver's license or nonresident operating privilege has been suspended pursuant to division (E) of this section may file a petition requesting occupational driving privileges in the municipal court, county court, or, if the person is a minor,~~

~~juvenile court with jurisdiction over the place at which the arrest occurred. The~~ A petition may be filed at any time subsequent to the date on which the arresting officer serves the notice of suspension upon the arrested person BUT NO LATER THAN THIRTY DAYS AFTER THE PERSON'S INITIAL APPEARANCE OR ARRAIGNMENT. UPON THE MAKING OF THE REQUEST, LIMITED DRIVING PRIVILEGES MAY BE GRANTED UNDER SECTION 4510.13 OF THE REVISED CODE, IRRESPECTIVE OF WHETHER THE PERSON APPEALS THE SUSPENSION UNDER THIS SECTION OR APPEALS THE DECISION OF THE COURT, AND, IF THE PERSON HAS APPEALED THE SUSPENSION OR DECISION, IRRESPECTIVE OF WHETHER THE MATTER HAS BEEN HEARD OR DECIDED BY THE COURT.

**(F) Disposition of License Pending Appeal** [Was §4507.18] Any person whose driver's or commercial driver's license has been suspended ~~or revoked~~ under section ~~4507.16~~ 4511.19 OR 4511.191 of the Revised Code and who desires to retain the license during the pendency of an appeal, . . . shall notify the court of record or mayor's court that suspended ~~or revoked~~ the license of his AN intention to appeal . . . [no further changes except strike "by him"].

**(G) Appeal; Registrar's Representation** [Was last paragraph of §4511.191(H)(2) & 2<sup>nd</sup> paragraph of §4511.191(I)(1)]. If the person appeals the suspension ~~at the initial appearance~~, the registrar shall be represented by the prosecuting attorney of the county in which the arrest occurred. ~~If the initial appearance appeal is conducted in a juvenile court or county court, except that if the arrest occurred within a city or village within the jurisdiction of the MUNICIPAL OR county court in which the appeal is conducted, the city director of law or village solicitor of that city or village shall represent the registrar. . . .~~ [no further changes].

~~(2)(a)(H)~~ [Was §4511.191(I)(2)(a)] ~~In granting occupational driving privileges under this section, the court may impose any condition it considers reasonable and necessary to limit the use of a vehicle by the person. The court shall deliver to the person a permit card, on a form to be prescribed by the court, setting forth the time, place, and other conditions limiting the person's use of a vehicle. The grant of occupational driving privileges shall be conditioned upon the person having the permit in the person's possession at all times during which the person is operating a vehicle.~~

~~A person granted limited driving privileges who operates a vehicle for other than the limited driving privileges stated, in violation of any condition imposed by the court, or without having the permit in the person's possession, is guilty of a violation of section 4507.02 of the Revised Code. [Repeats general law.]~~

[Was §§4511.191(I)(2)(b) & 4511.191(I)(3)] The court may not grant a person ~~occupational LIMITED driving privileges under division (I)(1) of this section when prohibited by a limitation contained in that division or during any of the following periods of time:~~ SECTION 4510.13 OR 4511.191 OF THE REVISED CODE. \* \* \*

~~(3)~~ [Was §4511.191(I)(3)] The court shall give information in writing of any action taken under this section to the registrar.

\* \* \*

[Current §4511.191(I)(4) would be repealed]

~~(J)(I)~~ **Notice of Nonresident Privileges Suspension** [Was §4511.191(J)] [No changes, once moved]

~~(J)~~ **Credit for Related Suspension** [Was 2<sup>nd</sup> paragraph of (K)] ~~The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to division (E) of section 4507.16 of the Revised Code any time which the person serves a related suspension imposed pursuant to division (B) or (C) of this section.~~

## §1547.11 OPERATING A VESSEL UNDER THE INFLUENCE

(A) **Prohibitions** No person shall operate or be in physical control of any vessel underway ~~or shall manipulate any water skis, aquaplane, or similar device~~ on the waters in this state, if any of the following applies:

- (1) The person is under the influence of alcohol, a drug of abuse, or ~~alcohol and a drug of abuse~~ A COMBINATION OF THEM;
- (2) The person has a concentration of ten-hundredths of one percent or more by weight of alcohol PER UNIT VOLUME in ~~his~~ THE PERSON'S WHOLE blood;
- (3) THE PERSON HAS A CONCENTRATION OF TWELVE-HUNDREDTHS OF ONE PERCENT OR MORE BY WEIGHT PER UNIT VOLUME OF ALCOHOL IN THE PERSON'S BLOOD SERUM OR PLASMA;
- (4) The person has a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of ~~his~~ THE PERSON'S breath;
- ~~(4)~~ (5) The person has a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of ~~his~~ THE PERSON'S urine.

(B) **Underage Prohibitions** No person under twenty-one years of age shall operate or be in physical control of any vessel underway ~~or shall manipulate any water skis, aquaplane, or similar device~~ on the waters in this state, if any of the following applies:

- (1) The person has a concentration of at least two-hundredths of one percent but less than ten-hundredths of one percent by weight PER UNIT VOLUME of alcohol in ~~his~~ THE PERSON'S WHOLE blood;
- (2) THE PERSON HAS A CONCENTRATION OF THREE-HUNDREDTHS OF ONE PERCENT BUT LESS THAN TWELVE-HUNDREDTHS 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 ten-hundredths of one gram by weight of alcohol per two hundred ten liters of ~~his~~ THE PERSON'S breath;
- ~~(3)~~ (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than fourteen-hundredths of one gram by weight of alcohol per one hundred milliliters of ~~his~~ THE PERSON'S urine.

(C) **Underage Violation** In any proceeding arising out of one incident, a person may be charged with a violation of division (A)(1) and a violation of division (B)(1), (2), (3), or (4) of this section, but ~~he~~ THE PERSON may not be convicted of more than one violation of these divisions.

(D) **Chemical tests**

- (1) In any criminal prosecution OR JUVENILE COURT PROCEEDING for a violation of this section OTHER THAN A VIOLATION OF DIVISION (A)(1) or of an ~~ordinance of any municipal corporation relating to operating a vessel or using any water skis, aquaplane, or similar device while under the influence of alcohol or a drug of abuse~~ EQUIVALENT OFFENSE, the court may admit evidence on the concentration of alcohol or a drug of abuse in the defendant's WHOLE blood, BLOOD SERUM OR PLASMA, urine, or breath at the time of the alleged violation as shown by chemical analysis of the ~~defendant's blood, urine, or breath taken~~ SUBSTANCE WITHDRAWN within two hours of ~~the time of~~ the alleged violation.

When a person submits to a blood test, only a physician, a registered nurse, ~~or~~ a qualified technician, ~~or~~ chemist, OR PHLEBOTOMIST shall withdraw blood for the purpose of determining its alcohol, ~~or drug of abuse,~~ OR ALCOHOL AND DRUG content. This limitation does not apply to the taking of breath or urine specimens. ~~A physician, a registered nurse, or a qualified technician, or chemist~~ AN AUTHORIZED

PERSON may refuse to withdraw blood for the purpose of determining the alcohol, drug, or alcohol and drug content of the blood UNDER THIS DIVISION, if in his THAT PERSON'S opinion the physical welfare of the person DEFENDANT would be endangered by the withdrawing of blood. . . . [no further changes].

(2) If there was at the time the blood, urine, or breath was taken a concentration of less than ten-hundredths of one per cent by weight of alcohol PER UNIT VOLUME in the defendant's WHOLE blood, A CONCENTRATION OF TWELVE-HUNDREDTHS OF ONE PERCENT OR MORE BY WEIGHT PER UNIT VOLUME OF ALCOHOL IN THE DEFENDANT'S BLOOD SERUM OR PLASMA, less than fourteen-hundredths of one gram by weight of alcohol per one hundred milliliters the defendant's urine . . . [no other change].

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

The person tested may have a physician, registered nurse, or qualified technician, or chemist, OR PHLEBOTOMIST of the person's own choosing administer a chemical test or tests . . . [no other change].

**(E) Lab Report as *Prima Facie* Evidence**

(1) IN ANY CRIMINAL PROSECUTION OR JUVENILE COURT PROCEEDING FOR A VIOLATION OF THIS SECTION OR OF AN EQUIVALENT OFFENSE, A LABORATORY REPORT CONTAINING AN ANALYSIS OF THE WHOLE BLOOD, BLOOD SERUM OR PLASMA, URINE, OR OTHER BODILY SUBSTANCE TESTED SHALL BE ADMITTED AS PRIMA FACIE EVIDENCE FROM ANY FORENSIC LABORATORY CERTIFIED BY THE DEPARTMENT OF HEALTH.

(2) THE LABORATORY REPORT SHALL CONTAIN ALL OF THE FOLLOWING:

(a) THE SIGNATURE, UNDER OATH, OF ANY PERSON PERFORMING THE ANALYSIS;

(b) ANY FINDINGS AS TO THE IDENTITY AND QUANTITY OF ALCOHOL, A DRUG OF ABUSE, OR COMBINATION OF THEM FOUND;

(c) A COPY OF A NOTARIZED STATEMENT BY THE LABORATORY DIRECTOR OR DESIGNEE CONTAINING ALL OF THE FOLLOWING: THE NAME OF ANY CERTIFIED ANALYST OR TEST PERFORMER INVOLVED IN THE REPORT; THE ANALYST'S EMPLOYMENT RELATIONSHIP WITH THE LABORATORY ISSUING THE REPORT; AND A NOTATION THAT PERFORMING THE ANALYSIS IS PART OF THE ANALYST'S REGULAR DUTIES;

(d) AN OUTLINE OF THE ANALYST'S EDUCATION, TRAINING, AND EXPERIENCE IN PERFORMING THE TYPE OF ANALYSIS INVOLVED AND A CERTIFICATION THAT APPROPRIATE QUALITY CONTROL STANDARDS WERE MET BY THE LABORATORY GENERALLY, AND IN THIS PARTICULAR ANALYSIS, UNDER DEPARTMENT OF HEALTH RULES.

(3) THE PROSECUTING ATTORNEY SHALL SERVE A COPY OF THE REPORT ON THE DEFENDANT'S ATTORNEY, OR ON THE DEFENDANT IF THE DEFENDANT HAS NO ATTORNEY, BEFORE ANY PROCEEDING, OTHER THAN A PRELIMINARY HEARING OR GRAND JURY PROCEEDING, IN WHICH THE REPORT IS TO BE USED AGAINST THE DEFENDANT.

(4) THE REPORT SHALL NOT BE PRIMA FACIE EVIDENCE OF THE CONTENTS, IDENTITY, OR AMOUNT OF ANY SUBSTANCE IF THE DEFENDANT OR THE DEFENDANT'S ATTORNEY DEMANDS THE TESTIMONY OF THE PERSON SIGNING THE REPORT WITHIN SEVEN DAYS FROM THE DATE THE REPORT IS RECEIVED BY THE DEFENDANT OR DEFENDANT'S ATTORNEY. THE TIME MAY BE EXTENDED BY THE JUDGE IN THE INTEREST OF JUSTICE.

(F) **Immunity** A physician, registered nurse, ~~or~~ qualified technician, ~~or~~ chemist, OR PHLEBOTOMIST who withdraws blood from a person pursuant to this section, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section, is immune from criminal liability, and from civil liability that is based upon a claim of assault and battery or based upon any other claim that is not in the nature of a claim of malpractice, for any act performed in withdrawing blood from the person UNLESS THE PERSON WITHDRAWING BLOOD ENGAGES IN WILLFUL OR WANTON MISCONDUCT.

(G) **Definitions** For the purposes of this section, ~~“operate”~~:

(1) **“OPERATE”** means that a vessel is being used on the waters . . . [no changes].

(2) **“EQUIVALENT OFFENSE”** MEANS A VIOLATION OF A MUNICIPAL ORDINANCE, LAW OF ANOTHER STATE, OR FEDERAL LAW THAT IS SUBSTANTIALLY EQUIVALENT TO THIS SECTION.

## §1547.111 IMPLIED CONSENT FOR WATERCRAFT OVI TESTING

(A)

(1) **Implied Consent** Any person who operates a vessel ~~or uses any water skis, aquaplane, or similar device~~ upon any waters in state shall be deemed to have given consent to a chemical test or tests ~~of his blood, breath, or urine for the purpose of determining its~~ TO DETERMINE THE alcohol, ~~or~~ drug of abuse, OR ALCOHOL AND DRUG OF ABUSE content OF THE PERSON'S WHOLE BLOOD, BLOOD SERUM OR PLASMA, BREATH, OR URINE if arrested for ~~the offense of~~ operating a vessel or ~~using any water skis, aquaplane, or similar device~~ in violation of section 1547.11 of the Revised Code.

(2) **Administering the Test** The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been operating a vessel ~~or using any water skis, aquaplane, or similar device~~ in violation of section 1547.11 of the Revised Code. . . . [no further changes]

(B) **Those Incapable of Refusing** Any person who is dead, unconscious, or who is otherwise in a condition rendering ~~him~~ THE PERSON incapable of refusal shall be deemed ~~not~~ to have ~~withdrawn consent~~ CONSENTED AS provided by IN division (A) of this section and the test or tests may be administered, subject to sections 313.16 of the Revised Code.

(C) **Reading and Witnessing the Form** Any person under arrest for ~~the offense of~~ operating a vessel ~~or using any water skis, aquaplane, or similar device~~ in violation of VIOLATING section 1547.11 of the Revised Code shall be advised of the consequences of ~~his~~ A refusal to submit to a chemical test ~~designated by the law enforcement agency~~ as provided in division (A) of this section. The advice shall be in a written form prescribed by the chief of the division of watercraft and shall be read to the person. The form shall contain a statement that the form was shown to the person under arrest and read to ~~him~~ THE PERSON in the presence of ~~BY~~ the arresting officer ~~and either another law enforcement officer, civilian law enforcement employee, or an employee of a hospital, first-aid station, or clinic, if any, to which the person has been taken for first-aid or medical treatment.~~ The witnesses READING OF THE FORM SHALL BE WITNESSED AND THE WITNESS shall certify to this fact by signing the form.

(D) **Penalties for Refusal** If a person ~~under arrest for the offense of operating a vessel or using any water skis, aquaplane, or similar device in violation of section 1547.11 of the Revised Code~~ refuses upon the request of ~~IS ASKED BY~~ a law enforcement officer to submit to a chemical test OR TESTS ~~designated by the law enforcement agency~~ as provided in division (A) of this section, ~~after first having been~~ IF THE OFFICER advised THE PERSON of the consequences of ~~his~~ THE PERSON'S refusal as provided in division (C) of this section, AND IF THE PERSON REFUSES TO SUBMIT, no chemical test shall be given, ~~but the chief of the~~

~~division of watercraft, upon~~ UPON receipt of a sworn statement of the law enforcement officer that ~~he~~ THE OFFICER had reasonable grounds to believe the arrested person ~~had been operating a vessel or using any water skis, aquaplane, or similar device while under the influence of alcohol or a drug of abuse, the combined influence of alcohol and a drug of abuse, or with a prohibited concentration of alcohol in his blood, urine, or breath~~ VIOLATED SECTION 1547.11 OF THE REVISED CODE, and that the person refused to submit to the chemical test upon the request of the ~~law enforcement~~ officer, and upon receipt of the form as provided in division (C) of this section certifying that the arrested person was advised of the consequences of his refusal, THE CHIEF OF THE DIVISION OF WATERCRAFT shall inform the person by written notice that ~~he~~ THE PERSON is prohibited from operating a vessel ~~or using any water skis, aquaplane, or similar device~~, and is prohibited from registering any watercraft in accordance with section 1547.54 of the Revised Code, for one year . . . The suspension . . . shall continue for the entire one-year period, subject to review as provided in this section.

If the person under arrest is the owner of the vessel involved in the alleged violation, the ~~chief of the division of watercraft, in addition to informing him by written notice that the person is prohibited from operating a vessel or using any water skis, aquaplane, or similar device, and from registering any watercraft in accordance with section 1547.54 of the Revised Code, for one year following the date of the alleged violation,~~ shall impound the registration certificate and tags issued to the person in accordance with sections 1547.54 and 1547.57 of the Revised Code, for a period of one year . . . [no further changes].

(E) **Notice of Penalties** Upon suspending a person's operation, use, and registration privileges in accordance with division (D) of this section, the chief of the division of watercraft shall notify the person in writing, at ~~his~~ THE PERSON'S last known address, and inform ~~him~~ THE PERSON that ~~he~~ THE PERSON may petition for a hearing in accordance with division (F) of this section. If a person whose operation, use, and registration privileges have been suspended petitions for a hearing or appeals any ADVERSE decision ~~that is adverse to him~~, the suspension of ~~privileges~~ shall begin at the termination of any hearing or appeal unless the hearing or appeal resulted in a decision favorable to the person.

(F) **Appeal** Any person who has been notified by the chief of the division of watercraft that ~~he~~ THE PERSON is prohibited from operating a vessel ~~or using any water skis, aquaplane, or similar device~~, and from registering any watercraft in accordance with section 1547.54 of the Revised Code, or who has had the registration certificate and tags of ~~his~~ THE PERSON'S watercraft impounded pursuant to division (D) of this section, may, within twenty days of the notification or impoundment, file a petition . . . The petitioner shall notify the chief of the division of watercraft of the filing of the petition and send ~~him~~ THE CHIEF a copy of the petition.

The scope of the hearing is limited to the issues of whether the law enforcement officer had reasonable grounds to believe the petitioner was operating a vessel ~~or using any water skis, aquaplane, or similar device while under the influence of alcohol or a drug of abuse, the combined influence of alcohol and a drug of abuse, or with a prohibited concentration of alcohol or a drug of abuse in his blood, urine, or breath~~ IN VIOLATION OF SECTION 1547.11 OF THE REVISED CODE, whether the petitioner was placed under arrest, whether the petitioner refused to submit to the chemical test upon request of the officer, and whether ~~he~~ THE PERSON was advised of the consequences of ~~his~~ THE PERSON'S refusal.

[Divisions (G), (H), & (I), concerning the court's review of an appeal, reinstatement after a suspension, and a prohibition against operating under suspension would not change, other than to eliminate gender specific language in (I)]

## WRONGFUL ENTRUSTMENT

### §4511.203 WRONGFUL ENTRUSTMENT OF A VEHICLE

[Was §4507.33]

(A) **Offense** No person shall ~~authorize or knowingly~~ permit a motor vehicle owned by ~~him~~ THE PERSON or under ~~his~~ THE PERSON'S control to be driven by ~~any person~~ ANOTHER if ~~either~~ ANY of the following ~~applies~~ APPLY:

(A)(1) The offender knows or ~~has reasonable cause to believe~~ SHOULD HAVE KNOWN THAT the other person ~~has no legal right to drive the motor vehicle~~ PERSON DOES NOT HAVE A VALID DRIVER'S LICENSE, COMMERCIAL DRIVER'S LICENSE, PERMIT, OR NONRESIDENT DRIVING PRIVILEGES, OR THAT IT HAS BEEN SUSPENDED OR CANCELED UNDER CHAPTER 4510. OF THE REVISED CODE;

(B)(2) The offender knows or ~~has reasonable cause to believe~~ SHOULD HAVE KNOWN THAT the other person's act of driving the motor vehicle would violate any provision ~~contained in sections 4507.01 to 4507.39~~ OF CHAPTER 4509. of the Revised Code;

(3) THE OFFENDER KNOWS OR SHOULD HAVE KNOWN THAT THE OTHER PERSON'S ACT OF DRIVING WOULD VIOLATE SECTION 4511.19 OR 4511.191 OF THE REVISED CODE.

(B) **Presumption** IT SHALL BE PRIMA FACIE EVIDENCE THAT THE OFFENDER KNOWS OR SHOULD HAVE KNOWN THAT THE MOTOR VEHICLE OWNED BY THE OFFENDER OR UNDER THE OFFENDER'S CONTROL WAS OPERATED IN VIOLATION OF THIS SECTION IF ONE THE FOLLOWING APPLIES:

(1) THE OFFENDER AND THE OPERATOR OF THE MOTOR VEHICLE OCCUPIED THE MOTOR VEHICLE TOGETHER AT THE TIME OF THE OFFENSE;

(2) THE OFFENDER AND THE OPERATOR OF THE MOTOR VEHICLE RESIDE IN THE SAME HOUSEHOLD.

(C) **Penalties** [Was §4507.99(E)] Whoever violates THIS section ~~4507.33 of the Revised Code~~ is guilty of ~~permitting the operation of a vehicle by a person with no legal right to operate a vehicle and shall be punished as provided in (E)(1) or (E)(2) of this section.~~ WRONGFUL ENTRUSTMENT (1) ~~Except as otherwise provided in (E)(2) of this section, permitting the operation of a vehicle with no legal right to operate a vehicle is a misdemeanor of the first degree. In addition to or independent of any other sentence that is imposed upon the offender and subject to 4503.235 of the Revised Code, the court shall order the immobilization for thirty days of the identification plates of that vehicle. The order for immobilization and impoundment shall be issued and enforced in accordance with 4503.233 of the Revised Code.~~ THE COURT SHALL IMPOSE A CLASS SIX SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. IN ADDITION, THE COURT SHALL ORDER ONE OF THE FOLLOWING:

(1) IF THE OFFENDER PREVIOUSLY HAS NOT BEEN FOUND GUILTY OF A VIOLATION OF THIS SECTION OR A SUBSTANTIALLY SIMILAR MUNICIPAL ORDINANCE, THE COURT SHALL ORDER, FOR THIRTY DAYS, THE IMMOBILIZATION OF THE OFFENDER'S VEHICLE AND IMPOUNDMENT OF THE IDENTIFICATION LICENSE PLATES OF THAT VEHICLE. THE ORDER SHALL BE ISSUED AND ENFORCED UNDER SECTION 4503.233 OF THE REVISED CODE.

(2) IF THE OFFENDER HAS PREVIOUSLY BEEN FOUND GUILTY OF ONE VIOLATION OF THIS SECTION OR A SUBSTANTIALLY SIMILAR MUNICIPAL ORDINANCE, THE COURT SHALL ORDER, FOR SIXTY DAYS, THE IMMOBILIZATION OF THE OFFENDER'S VEHICLE AND THE IMPOUNDMENT OF THE IDENTIFICATION LICENSE PLATES OF THAT VEHICLE. THE ORDER SHALL BE ISSUED AND ENFORCED UNDER SECTION 4503.233 OF THE REVISED CODE.

~~(3) If the offender PREVIOUSLY has been convicted of or pleaded FOUND guilty to one OF TWO or more violations of THIS section OR A SUBSTANTIALLY SIMILAR MUNICIPAL ORDINANCE 4507.33 of the Revised Code, permitting the operation of a vehicle with no legal right to operate a vehicle is a misdemeanor of the first degree. In addition to or independent to any other sentence that it imposes upon the offender and subject to 4503.235 of the Revised Code, the court shall order the criminal forfeiture to the state of the OFFENDER'S vehicle involved in the offense. The order of criminal forfeiture shall be issued and enforced in accordance with section 4503.234 of the Revised Code.~~

**(D) Release of Vehicle** THE COURT SHALL NOT RELEASE A VEHICLE FROM THE IMMOBILIZATION ORDERED BEFORE THE PERIOD OF IMMOBILIZATION TERMINATES UNDER THIS SECTION UNLESS THE COURT IS PRESENTED WITH CURRENT PROOF OF FINANCIAL RESPONSIBILITY WITH RESPECT TO THAT VEHICLE.

**(E) Registrar Limitations** UPON RECEIPT OF THE VEHICLE FORFEITURE ORDER FROM THE COURT, NEITHER THE REGISTRAR NOR ANY DEPUTY REGISTRAR SHALL ACCEPT ANY APPLICATION FOR THE REGISTRATION OR TRANSFER OF REGISTRATION OF ANY MOTOR VEHICLE OWNED OR LEASED BY THE PERSON NAMED IN THE ORDER. THE PERIOD OF DENIAL SHALL BE FIVE YEARS AFTER THE DATE OF THE ORDER, UNLESS, DURING THAT PERIOD, THE COURT HAVING JURISDICTION OF THE OFFENSE THAT LED TO THE ORDER TERMINATES THE FORFEITURE AND NOTIFIES THE REGISTRAR OF THE TERMINATION. THE REGISTRAR THEN SHALL TAKE NECESSARY MEASURES TO PERMIT THE PERSON TO REGISTER A VEHICLE OWNED OR LEASED BY THE PERSON OR TO TRANSFER THE REGISTRATION OF THE VEHICLE.

**(F) Limitation** THIS SECTION IS NOT APPLICABLE TO RENTAL DEALERS OR LEASING DEALERS AS DEFINED IN SECTION 4549.65 OF THE REVISED CODE.

## **SPEEDING, OTHER MOVING VIOLATIONS, AND FRAUDS**

### **§4511.21 SPEEDING AND ASSURED CLEAR DISTANCE**

[Proposed (M), below, would provide specific penalties for speeding. The exceptions in divisions (D)(2) & (3) were retained, but moved into (M)(1)(d) & (2), to keep speeding penalties in one place. (D) would continue to cover non-speeding offenses that do not have specific penalties. Divisions (A)-(N), setting out speeding offenses and related law, would not change substantively.]

#### **(M) Penalties**

(1) WHOEVER VIOLATES THIS SECTION, OR A SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE, IS GUILTY OF ONE OF THE FOLLOWING:

(a) EXCEPT AS PROVIDED IN DIVISIONS (M)(1)(b) THROUGH (d) OF THIS SECTION, A MINOR MISDEMEANOR;

(b) IF, WITHIN ONE YEAR OF THE OFFENSE, THE OFFENDER PREVIOUSLY HAS BEEN FOUND GUILTY OF TWO SUCH VIOLATIONS, A MISDEMEANOR OF THE FOURTH DEGREE;

(c) IF, WITHIN ONE YEAR OF THE OFFENSE, THE OFFENDER PREVIOUSLY HAS BEEN FOUND GUILTY OF THREE OR MORE SUCH VIOLATIONS, A MISDEMEANOR OF THE THIRD DEGREE.

(d) [Was §4511.99(D)(2)] ~~When any person is found guilty of~~ IF a first offense ~~for a violation of THIS section 4511.21 of the Revised Code,~~ upon a

finding that the person operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, or faster than fifty miles an hour in other portions OF A MUNICIPAL CORPORATION, or faster than thirty-five miles an hour while passing through IN a school zone during recess or while children are going to or leaving school during the opening or closing hours, a misdemeanor of the fourth degree.

(2) [Was §4511.99(D)(3)] Notwithstanding ~~section 2929.21 of the Revised Code~~ DIVISION (M)(1) OF THIS SECTION, upon a finding that the person operated a motor vehicle in a construction zone where a sign was then posted in accordance with section 4511.98 of the Revised Code, the court, in addition to all other penalties provided by law, shall impose 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 a violation upon an offender who alleges, in an affidavit filed with the court prior to his THE OFFENDER'S sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this division, provided the court determines the offender is an indigent person and is unable to pay the fine.

(3) IN ADDITION TO ANY OTHER PENALTIES, IF, WITHIN ONE YEAR OF THE OFFENSE, THE OFFENDER PREVIOUSLY HAS BEEN FOUND GUILTY OF THREE OR MORE SUCH VIOLATIONS, THE COURT MAY IMPOSE A CLASS SIX SUSPENSION OF THE OFFENDER'S LICENSE UNDER SECTION 4510.02 OF THE REVISED CODE.

#### **§4511.211 SPEEDING ON PRIVATE PROPERTY**

[Amend to tract the penalties in §4511.21, above]

#### **§4511.251 STREET RACING**

[Divisions (A), defining "street racing", and (B) forbidding it, would not change.]

(C) **Penalties** [Was §§4507.16 & 4507.99(B)] WHOEVER VIOLATES THIS SECTION IS GUILTY OF STREET RACING, A MISDEMEANOR OF THE FIRST DEGREE. THE COURT MAY IMPOSE A CLASS SIX SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE.

#### **§4511.75 SCHOOL BUS VIOLATIONS**

[Divisions (A) through (E), requiring drivers to stop for loading school buses, requiring certain equipment on buses, addressing divided highways, etc., would not change.]

(F) **Penalties** [Was §§4507.165 & 4511.99(G)] WHOEVER VIOLATES DIVISION (A) OF THIS SECTION MAY BE FINED NOT MORE THAN FIVE HUNDRED DOLLARS. A PERSON CITED FOR THE VIOLATION SHALL NOT ENTER A PLEA AND WAIVE THE RIGHT TO TRIAL. THE PERSON MUST APPEAR IN PERSON TO ANSWER THE CHARGE.

THE COURT MAY, IN ADDITION TO OTHER PENALTIES, IMPOSE A CLASS SIX SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE. WHEN A LICENSE IS SUSPENDED UNDER THIS SECTION, THE COURT SHALL CAUSE THE OFFENDER TO DELIVER THE LICENSE TO THE COURT, WHICH SHALL IMMEDIATELY FORWARD THE LICENSE TO THE REGISTRAR, TOGETHER WITH NOTICE OF THE COURT'S ACTION.

#### **§4511.99 CERTAIN MOTOR VEHICLE LAW PENALTIES**

[As with other .99 sections in Title 45, this should be repealed, with penalties placed in the sections that create the crimes, if feasible. Some of the penalties should be amended further,

as indicated elsewhere. These are: 1) Divisions (A) and (N), covering OVI penalties, would be integrated into 4511.19 above, with the language streamlined somewhat; 2) Divisions (D)(2) & (3), covering speeding exceptions, should be modified and placed in the speeding & assured clear distance statutes (4511.21 & .22), above; 3) Division (E) would be repealed, thereby eliminating the driver's or commercial driver's license suspension for these violations: 4511.761 (school bus inspection), 4511.762 (school bus not used for school purposes) & 4511.77 (school bus marking).]

#### **§4549.02 FAILURE TO STOP AFTER AN ACCIDENT**

[The current offense would be made division (A) and not otherwise change.]

**(B) Penalties** [Was §4549.99] WHOEVER VIOLATES THIS SECTION IS GUILTY OF FAILURE TO STOP AFTER AN ACCIDENT, A MISDEMEANOR OF THE FIRST DEGREE. THE COURT, IN ADDITION TO OTHER PENALTIES, MAY IMPOSE A CLASS FOUR SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE.

#### **§4549.021 FAILURE TO STOP AFTER A NON-HIGHWAY ACCIDENT**

[The current offense would be made division (A) and not otherwise change.]

**(B) Penalties** [Was §4549.99] WHOEVER VIOLATES THIS SECTION IS GUILTY OF FAILURE TO STOP AFTER A NON-HIGHWAY ACCIDENT, A MISDEMEANOR OF THE FIRST DEGREE. THE COURT, IN ADDITION TO OTHER PENALTIES, MAY IMPOSE A CLASS FOUR SUSPENSION UNDER SECTION 4510.02 OF THE REVISED CODE.

#### **§4549.04 ILLEGAL SALE OR POSSESSION OF MASTER CAR KEYS**

[Was §4549.042. The current offense would be made division (A) and not otherwise change.]

**(B)** [Was §4549.99] WHOEVER VIOLATES THIS SECTION IS GUILTY OF IMPROPER TRANSFER OR POSSESSION OF A MASTER KEY, A FELONY OF THE FOURTH DEGREE ON FIRST OFFENSE AND A FELONY OF THE THIRD DEGREE ON SUBSEQUENT OFFENSES.

#### **§4549.43 SALE OF DEVICE TO AFFECT ODOMETER**

[The current offense would be made division (A) and not otherwise change.]

**(B)** [Was §4549.99] WHOEVER VIOLATES THIS SECTION IS GUILTY OF SELLING OR INSTALLING AN ODOMETER TAMPERING DEVICE, A FELONY OF THE FOURTH DEGREE ON FIRST OFFENSE AND A FELONY OF THE THIRD DEGREE ON SUBSEQUENT OFFENSES. THE PROSECUTING ATTORNEY OR THE ATTORNEY GENERAL MAY BRING A CRIMINAL ACTION TO ENFORCE SECTIONS 4549.41 THROUGH 4549.51 OF THE REVISED CODE. THE ATTORNEY GENERAL AND PROSECUTING ATTORNEY OF THE COUNTY IN WHICH A PERSON LICENSED OR GRANTED A PERMIT UNDER CHAPTER 4517. OF THE REVISED CODE IS FOUND GUILTY OF A VIOLATION OF THIS SECTION SHALL REPORT THE CONVICTION TO THE REGISTRAR WITHIN FIVE BUSINESS DAYS.

#### **§4549.44 OPERATION WITH DISCONNECTED ODOMETER**

[The current offense would be made division (A) and not otherwise change.]

(B) [Was §4549.99] WHOEVER VIOLATES THIS SECTION IS GUILTY OF FRAUDULENT DRIVING WITHOUT AN ODOMETER, A FELONY OF THE FOURTH DEGREE ON FIRST OFFENSE AND A FELONY OF THE THIRD DEGREE ON SUBSEQUENT OFFENSES.

**§4549.45 SALE OF VEHICLE WITH TAMPERED ODOMETER**

[The current offense would be made division (A) and not otherwise change.]

(B) [Was §4549.99] WHOEVER VIOLATES THIS SECTION IS GUILTY OF TRANSFERRING A VEHICLE WITH A TAMPERED ODOMETER, A FELONY OF THE FOURTH DEGREE ON FIRST OFFENSE AND A FELONY OF THE THIRD DEGREE ON SUBSEQUENT OFFENSES.

**§4549.46 ODOMETER DISCLOSURE**

[The current offense would be made division (A) and not otherwise change.]

(B) [Was §4549.99] WHOEVER VIOLATES THIS SECTION IS GUILTY OF AN ODOMETER DISCLOSURE VIOLATION, A FELONY OF THE FOURTH DEGREE ON FIRST OFFENSE AND A FELONY OF THE THIRD DEGREE ON SUBSEQUENT OFFENSES.

**§4549.62 FRAUD CONCERNING VEHICLE IDENTIFICATION NUMBERS**

[The current offenses in division (A), (B), (C), & (D) would not change.]

(E) [Was §4549.99] WHOEVER VIOLATES DIVISION (D)(4)(c) OF THIS SECTION IS GUILTY OF FRAUD CONCERNING A VEHICLE IDENTIFICATION NUMBER, A MINOR MISDEMEANOR. WHOEVER VIOLATES DIVISION (A), (B), (C), OR (D)(1) OF THIS SECTION IS GUILTY OF A FELONY OF THE FIFTH DEGREE ON FIRST OFFENSE AND A FELONY OF THE FOURTH DEGREE ON SUBSEQUENT OFFENSES.

**§4549.99 ODOMETER, ETC. PENALTIES**

[Repeal if penalties are merged into substantive sections.]