



ORDINANCE 2024-17

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF POWELL, OHIO TO PROVIDE AMENDMENTS TO TRAFFIC POWELL CITY CODE SECTIONS 301.061, 301.35, 301.52, 331.35, 331.38, 333.01, 333.03, 333.11, 335.15, 335.20, 337.10, 337.16, 337.22, 337.26, 341.01, 341.04, 341.05, 351.04; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF POWELL, STATE OF OHIO:

Section 1. That the Code of Ordinances of the City of Powell, Ohio (meaning City Municipal Code) is hereby amended by adding the provisions as provided below.

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

Section 3. The codifier (meaning the person, agency or organization authorized to prepare the supplement to the Code of Ordinances of the City of Powell, Ohio) is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the City's Municipal Code.

Section 4. Supplementation of Code.

(a) In preparing a supplement to the City's Municipal Code, all portions of this ordinance which have been repealed shall be excluded from the City's Municipal Code by the omission thereof from reprinted pages.

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

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the City's Municipal Code printed in the supplement, and make changes in such catchlines, headings, and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the City's Municipal Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

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(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the City's Municipal Code which embody the substantive sections, or the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the City's Municipal Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the City's Municipal Code.

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

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

Section 6. The following sections and subsections of the Municipal Code are new or have been amended with new matter in the Municipal Code, and are hereby approved, adopted, and enacted:

301.061 CHILD DAY-CARE CENTER.

Child day-care center and *type A family day- child care home* have the same meanings as in section 5104.01 of the Ohio Revised Code.

(Ord. No. 2020-08 , §§ 1, 6, 5-19-2020)

State Law reference— (O.R.C. § 4511.01(FFF))

301.35 SCHOOL BUS.

School bus means every bus designed for carrying more than nine passengers that is owned by a public, private or governmental agency or institution of learning and operated for the transportation of children to or from a school session or a school function, or owned by a private person and operated for compensation for the transportation of children to or from a school session or a school function; provided "school bus" does not include a bus operated by a municipally owned transportation system, a mass transit company operating exclusively within the territorial limits of the Municipality, or within such limits and the territorial limits of municipal corporations immediately contiguous to the Municipality, or within such limits and the territorial limits of municipal corporations immediately contiguous to such municipal corporation, nor a common passenger carrier certified by the Public Utilities Commission unless such bus is devoted exclusively to the transportation of children to and from a school session or a school function, and "school bus" does not include a van or bus used by a licensed *child day-care center* or *type A family day- child care home* to transport children from the *child day-care center* or *type A family day- child care home* to a school if the van or bus does not have more than 15 children in the van or bus at any time.

(Ord. No. 2020-08 , §§ 1, 6, 5-19-2020)

State Law reference— (O.R.C. § 4511.01(F), (FFF))

301.52 WHEELCHAIR, MOTORIZED.

Motorized wheelchair means any self-propelled vehicle designed for, and used by, a handicapped person with a disability and that is incapable of a speed in excess of eight miles per hour.

State Law reference— (O.R.C. § 4511.01(EEE))

331.35 OCCUPYING A MOVING TRAILER OR MANUFACTURED OR MOBILE HOME.

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

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

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

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

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

(bc) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

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

State Law reference— (O.R.C. § 4511.701)

331.38 STOPPING FOR SCHOOL BUS; DISCHARGING CHILDREN.

(a) The driver of a vehicle upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this subsection (a) hereof that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by subsection (b) hereof.

(b) Every school bus shall be equipped with amber and red visual signals meeting the requirements of O.R.C. 4511.771, and an automatically extended stop warning sign of a type approved by the State Board Department of Education and workforce, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered

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by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and County boards of developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are boarding or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the Board.

- (c) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle overtaking the school bus shall comply with subsection (a) hereof.
- (d) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.
- (e) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child or person's residence side of the road.
- (f) As used in this section:
- (1) *Head start agency* has the same meaning as in O.R.C. 3301.32.
 - (2) *School bus*, as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the ~~State Board of Education~~ Department, is painted the color and displays the markings described in O.R.C. 4511.77, and is equipped with amber and red visual signals meeting the requirements of O.R.C. 4511.771, irrespective of whether or not the bus has 15 or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.
- (g) (1) Whoever violates subsection (a) of this section may be fined an amount not to exceed \$500.00. A person who is issued a citation for a violation of subsection (a) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.
- (2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (a)(7) of O.R.C. 4510.02. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the Registrar of Motor Vehicles, together with notice of the court's action.

State Law reference— (O.R.C. § 4511.75)

333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.

- (a) (1) *Operation Generally.* No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
- A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.

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- B. The person has a concentration of eight-hundredths of one percent or more but less than seventeen-hundredths of one percent by weight per unit volume of alcohol in the person's whole blood.
- C. The person has a concentration of ninety-six-thousandths of one percent or more but less than two hundred four-thousandths of one percent by weight per unit volume of alcohol in the person's blood serum or plasma.
- D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
- E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.
- F. The person has a concentration of seventeen-hundredths of one percent or more by weight per unit volume of alcohol in the person's whole blood.
- G. The person has a concentration of two hundred four-thousandths of one percent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
- H. The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.
- I. The person has a concentration of two hundred thirty-eight- thousandths of one gram or more by weight of alcohol per 150 milliliters of the person's urine.
- J. Except as provided in subsection (m) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
 - 1. The person has a concentration of amphetamine in the person's urine of at least 500 nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
 - 2. The person has a concentration of cocaine in the person's urine of at least 150 nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least 50 nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
 - 3. The person has a concentration of cocaine metabolite in the person's urine of at least 150 nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - 4. The person has a concentration of heroin in the person's urine of at least 2,000 nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least 50 nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
 - 5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.

6. The person has a concentration of L.S.D. in the person's urine of at least 25 nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
 7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
 8. Either of the following applies:
 - a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and, as measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least 15 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - b. As measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least 35 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 9. The person has a concentration of methamphetamine in the person's urine of at least 500 nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
 10. The person has a concentration of phencyclidine in the person's urine of at least 25 nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.
 11. The State Board of Pharmacy has adopted a rule pursuant to O.R.C. 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle within this Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.
- (2) No person who, within 20 years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of O.R.C. 4511.19(A) or (B), or any other equivalent offense shall do both of the following:
- A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
 - B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under O.R.C. 4511.191, and being advised by the officer in accordance with O.R.C.

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4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

- (b) *Operation After Under-Age Consumption.* No person under 21 years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
- (1) The person has a concentration of at least two-hundredths of one percent but less than eight-hundredths of one percent by weight per unit volume of alcohol in the person's whole blood.
 - (2) The person has a concentration of at least three-hundredths of one percent but less than ninety-six-thousandths of one percent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - (3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per 210 liters of the person's breath.
 - (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per 100 milliliters of the person's urine.
- (c) *One Conviction Limitation.* In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections.

State Law reference— (O.R.C. § 4511.99)

(d) *Physical Control.*

- (1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.
- (2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
 1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 2. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.
 3. Except as provided in subsection (d)(3) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in subsection (a)(1)J. hereof.
- B. No person under 21 years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.
- (3) Subsection (d)(2)A.3. of this section does not apply to a person who is in physical control of a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in subsection (a)(1)J. hereof, if both of the following apply:
 - A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(e) *Evidence; Tests.*

- (1) A. In any criminal prosecution or juvenile court proceeding for a violation of (a)(1)A. of this section or for any equivalent offense, that is vehicle-related the result of any test of any blood or

urine withdrawn and analyzed at any health care provider, as defined in O.R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.

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

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

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

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

- (2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense that is vehicle related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section, or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.
- (3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis.

If the chemical test was obtained pursuant to subsection (e)(1)B. hereof, the person tested may have a physician, a registered nurse, or a qualified technician, chemist or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in division (A)(5) of O.R.C. 4511.191, the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in division (A)(5) of O.R.C. 4511.191, the form to be read to the person to be tested, as required under O.R.C.

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4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

- (4) A. As used in subsections (e)(4)B. and C. of this section, "national highway traffic safety administration" means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.
- B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a), (b) or (d) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine, if a law enforcement officer has administered a field sobriety test to the operator or person in physical control of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:
1. The officer may testify concerning the results of the field sobriety test so administered.
 2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 3. If testimony is presented or evidence is introduced under subsection (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
- C. Subsection (e)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (e)(4)B. of this section.

State Law reference— (O.R.C. § 4511.19; 4511.194)

(f) *Forensic Laboratory Reports.*

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

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analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;

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

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

(h) *General OVI Penalty.*

- (1) Whoever violates any provision of subsections (a)(1)A—I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under O.R.C. Chapter 2929, and this Traffic Code, except as otherwise authorized or required by subsections (h)(1)A—E. of this section:
- A. Except as otherwise provided in subsections (h)(1)B., C., D. or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:
1. If the sentence is being imposed for a violation of subsections (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of three consecutive days. As used in this subsection, three consecutive days means 72 consecutive hours. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this subsection if the court, in lieu of that suspended term, places the offender under a community

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control sanction pursuant to O.R.C. 2929.25 and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under O.R.C. 5119.38.

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

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

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

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

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

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

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

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

3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than \$525.00 and not more than \$1,625.00.
4. In all cases, a class four license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of O.R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under O.R.C. 4510.021 and 4510.13.

State Law reference— (O.R.C. § 4511.19)

5. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for 90 days in accordance with O.R.C. 4503.233 and impoundment of the license plates of that vehicle for 90 days.

State Law reference— (O.R.C. § 4511.193)

- C. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) or (b) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of 30 consecutive days. The court shall impose the

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30-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the 30-day mandatory jail term. Notwithstanding the jail terms set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, a mandatory jail term of 60 consecutive days. The court shall impose the 60-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of electronically monitored house arrest with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the 60-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than \$850.00 and not more than \$2,750.00.
4. In all cases, a class three license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of O.R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under O.R.C. 4510.021 and 4510.13.

State Law reference— (O.R.C. § 4511.19)

5. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with O.R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection.

State Law reference— (O.R.C. § 4511.193)

6. In all cases, the court shall order the offender to participate with a community addiction services provider authorized by O.R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The operator of the services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.
- D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) ~~or (b)~~ of this section or other equivalent offenses ~~or~~, an offender who, within 20 years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature, or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in O.R.C. 2941.1413 is guilty of a felony of the fourth degree and shall be prosecuted under appropriate state law.
- E. An offender who previously has been convicted of or pleaded guilty to a violation of O.R.C. 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty

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plea occurred, is guilty of a felony of the third degree and shall be prosecuted under appropriate state law.

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

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

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

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

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

- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if O.R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under O.R.C. 4503.231, except as provided in division

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- (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of O.R.C. 4503.231.
- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of O.R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in O.R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to O.R.C. 2929.18 or 2929.28 in an amount not exceeding \$5,000.00 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.
- (7) As used in subsection (h) of this section, "electronic monitoring," "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in O.R.C. 2929.01.
- (i) *Vehicle Operation After Underage Alcohol Consumption Penalty.* Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:
- (1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of O.R.C. 4510.02.
- (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) or (b) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of O.R.C. 4510.02.
- ~~(3) If the offender also is convicted of or also pleads guilty to a specification of the type described in O.R.C. 2941.1416 and if the court imposes a jail term for the violation of subsection (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of O.R.C. 2929.24.~~
- (4) The offender shall provide the court with proof of financial responsibility as defined in O.R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to O.R.C. 2929.28, in an amount not exceeding \$5,000.00 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the violation of subsection (b) of this section.

State Law reference— (O.R.C. § 4511.19)

- (j) *Physical Control Penalty.* Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of O.R.C. 4510.02.

State Law reference— (O.R.C. § 4511.194)

(k) *Compliance With O.R.C. Ch. 5119 Standards.*

- (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under O.R.C. Chapter 5119 by the Director of Mental Health and Addiction Services.
 - (2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.
- (l) *Appeal Does Not Stay Operation of License Suspension.* If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.
- (m) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:
- (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
- (n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of O.R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.
- (o) *Conflict of Terms.* All terms defined in O.R.C. 4510.01 apply to this section. If the meaning of a term defined in O.R.C. 4510.01 conflicts with the meaning of the same term as defined in O.R.C. 4501.01 or this Traffic Code, the term as defined in O.R.C. 4510.01 applies to this section.

State Law reference— (O.R.C. § 4511.19)

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

(q) *Definitions.* As used in this section:

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

- A. A violation of division (A) or ~~(B)~~ of O.R.C. 4511.19;
- B. A violation of a municipal OVI ordinance;
- C. A violation of O.R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
- D. A violation of division (A)(1) of O.R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
- E. A violation of division (A)(2), (3) or (4) of O.R.C. 2903.06, division (A)(2) of O.R.C. 2903.08, or former O.R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
- F. A violation of division (A) or ~~(B)~~ of O.R.C. 1547.11;

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

State Law reference— (O.R.C. § 4511.181)

333.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.

- (a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead.
- (b) It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to O.R.C. 4511.21 by the Ohio Director of Transportation or Council, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

- (1) A. Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when 20 miles per hour school speed limit signs are erected; except, that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(4) hereof and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(7) hereof. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the manual and specifications for a uniform system of traffic control devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect.
- B. As used in this section, "school" means any school chartered under O.R.C. 3301.16 and any nonchartered school that during the preceding year filed with the Department of Education and workforce in compliance with rule 3301-35-08 of the Ohio Administrative Code, a copy of the school's report for the parents of the school's pupils certifying that the school meets Ohio minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone.
- C. As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway. Upon request from the Municipality for streets and highways under its jurisdiction, the Ohio Director of Transportation may extend the traditional school zone boundaries. The distances in subsections (b)(1)C.1—3. hereof shall not exceed 300 feet per approach per direction and are bounded by whichever of the following distances or combinations thereof the Director approves as most appropriate:
1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
 2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;
 3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of highway;
- Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in subsections (b)(1)A. and C. hereof.
- D. As used in this subsection, "crosswalk" has the meaning given that term in Section 301.09. The Director may, upon request by resolution of Council, and upon submission by the Municipality of such engineering, traffic and other information as the Director considers necessary, designate a school zone on any portion of a state route lying within the Municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet on each approach direction of the state route;
- E. As used in this section, "special elementary school" means a school that meets all of the following criteria:
1. It is not chartered and does not receive tax revenue from any source.
 2. It does not educate children beyond the eighth grade.
 3. It is located outside the limits of a municipal corporation.

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4. A majority of the total number of students enrolled at the school are not related by blood.
 5. The principal or other person in charge of the special elementary school annually sends a report to the superintendent of the school district in which the special elementary school is located indicating the total number of students enrolled at the school, but otherwise the principal or other person in charge does not report any other information or data to the superintendent.
- (2) Twenty-five miles per hour in all other portions of the Municipality, except on state routes outside business districts, through highways outside business districts and alleys;
 - (3) Thirty-five miles per hour on all state routes or through highways within the Municipality outside business districts, except as provided in subsections (b)(4) and (5) hereof;
 - (4) Fifty miles per hour on controlled-access highways and expressways within the Municipality, except as provided in divisions (B)(12), (13), (14), (15), and (16) of this section;
 - (5) Fifty-five miles per hour on highways outside municipal corporations, other than highways within island jurisdictions as provided in division (B)(8) of this section, highways as provided in divisions (B)(9) and (10) of this section, and highways, expressways, and freeways as provided in divisions (B)(12), (13), (14), and (16) of this section;
 - (6) Fifty miles per hour on state routes within the Municipality outside urban districts unless a lower prima-facie speed is established as further provided in this section;
 - (7) Fifteen miles per hour on all alleys within the Municipality;
 - (8) Thirty-five miles per hour on highways outside municipal corporations that are within an island jurisdiction;
 - (9) Thirty-five miles per hour on through highways, except state routes, that are outside municipal corporations and that are within a national park with boundaries extending through two or more counties;
 - (10) Sixty miles per hour on two-lane state routes outside municipal corporations as established by the director under division (H)(2) of this section;
 - (11) Fifty-five miles per hour on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)(14) and (16);
 - (12) Sixty miles per hour on rural expressways with traffic control signals and on all portions of rural divided highways, except as provided in divisions (B)(13) and (14) of this section;
 - (13) Sixty-five miles per hour on rural expressways without traffic control signals;
 - (14) Seventy miles per hour on all rural freeways.
 - (15) Fifty-five miles per hour on all portions of freeways or expressways in congested areas as determined by the Director and that are located within a municipal corporation or within an interstate freeway outerbelt, except as provided in division (B)(16) of this section;
 - (16) Sixty-five miles per hour on all portions of freeways or expressways without traffic control signals in urbanized areas;
- (c) It is prima-facie unlawful for any person to exceed any of the speed limitations in subsection (b)(1)A. to (b)(6) hereof, or any declared or established pursuant to this section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations in subsection (d) hereof. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.
- (d) No person shall operate a motor vehicle upon a street or highway as follows:

- (1) At a speed exceeding 55 miles per hour, except upon a two-lane state route as provided in division (B)(10) of this section and except upon a highway, expressway or freeway as provided in subsection (b)(12), (13), (14) and (16) hereof;
 - (2) At a speed exceeding 60 miles per hour upon a two-lane state route as provided in division (B)(10) of this section and upon a highway as provided in subsection (b)(12) hereof;
 - (3) At a speed exceeding 65 miles per hour upon an expressway as provided in subsection (b)(13) hereof, or upon a freeway as provided in division (B)(16) of this section, except upon a freeway as provided in subsection (b)(14) hereof;
 - (4) At a speed exceeding 70 miles per hour upon a freeway as provided in subsection (b)(14) hereof;
 - (5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to O.R.C. § 4511.21(I)(2) or (L)(2).
- (e) In every charge of violation of this section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (c) hereof also the speed which subsections (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.
- (f) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (b)(1)A. to (b)(6) hereof, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d) hereof. If the court finds a violation of subsection (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) hereof. If it finds no violation of subsections (b)(1)A. to (b)(6) hereof or a limit declared or established pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (d) hereof.
- (g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with O.R.C. § 4510.036.
- (h) Whenever, in accordance with O.R.C. § 4511.21 or this section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.
- (i) As used in this section:
- (1) "Interstate system" has the same meaning as in 23 U.S.C.A. 101.
 - (2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
 - (3) "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
 - (4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
 - (5) "Rural" means an area outside urbanized areas and outside of a business or urban district, and areas that extend within urbanized areas where the roadway characteristics remain mostly unchanged from those outside the urbanized areas.
 - (6) "Urbanized area" has the same meaning as in 23 U.S.C. 101.

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(7) "Divided" means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.

(j) (1) A violation of any provision of this section is one of the following:

- A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this section, a minor misdemeanor;
- B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of O.R.C. § 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;
- C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of O.R.C. § 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.

(2) ~~If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of O.R.C. § 4511.21 or of any provision of a municipal ordinance that is substantially similar to O.R.C. § 4511.21 and operated a motor vehicle faster than 35 miles an hour in a business district of a municipal corporation, faster than 50 miles an hour in other portions of a municipal corporation, or faster than 35 miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree. Division (j)(2) of this section does not apply if the penalties may be imposed under division (j)(1)B or C of this section.~~

(3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with O.R.C. § 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.

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

(Ord. No. 2020-08 , §§ 1, 6, 5-19-2020)

State Law reference— (O.R.C. § 4511.21)

333.11 TEXTING WHILE DRIVING PROHIBITED.

(a) No person shall ~~drive~~ operate a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using ~~a handheld electronic wireless communications device to write, send, or read a text-based communication, holding, or physically supporting with any part of the person's body an electronic wireless communications device.~~

(b) Division (a) of this section does not apply to any of the following:

- (1) A person using an handheld electronic wireless communications device ~~in that manner~~ to make contact for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

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- (2) A person driving a public safety vehicle who ~~uses a handheld~~ while using an electronic wireless communications device in that manner in the course of the person's duties;
- (3) A person using a ~~handheld~~ an electronic wireless communications device ~~in that manner whose~~ when the person's motor vehicle is in a stationary position and who is outside a lane of travel, at a traffic control signal that is currently directing traffic to stop, or parked on a road or highway due to an emergency or road closure;
- (4) A person ~~reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device~~ using and holding an electronic wireless communications device directly near the person's ear for the purpose of making, or receiving, or conducting a telephone call, provided that the person does not manually enter letters, numbers, or symbols into the device;
- (5) A person receiving wireless messages on a an electronic wireless communications device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle provided that the person does not hold or support the device with any part of the person's body;
- (6) A person ~~receiving using the speaker phone function of the electronic wireless messages via radio waves~~ communications device, provided that the person does not hold or support the device with any part of the person's body;
- (7) A person using an electronic wireless communications device for navigation purposes, provided that the person does not do either of the following during the use.:
- a. Manually enter letters, numbers, or symbols into the device.;
 - b. Hold or support the device with any part of the person's body;
- (8) A person ~~conducting~~ using a feature or function of the electronic wireless communications device ~~interpersonal communication with a device~~ single touch or single swipe, provided that the person does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of do either of the following during the device; use:
- a. Manually enter letters, numbers, or symbols into the device.;
 - b. Hold or support the device with any part of the person's body;
- (9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;
- (10) A person operating a utility service vehicle or a vehicle for or on behalf of a utility, if the person is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals;
- ~~(11)~~ (11) A person using an handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle ~~or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe,~~ provided the person does not hold or support the device with any part of the person's body;
- (12) A person using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does not do either of the following during the use:
- (a) Manually enter letters, numbers, or symbols into the device;
 - (b) Hold or support the device with any part of the person's body.
- (13) A person storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.

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

~~Notwithstanding any provision of (2) If a law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether issues an offender a violation of subsection (a) hereof has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature division (a) of this section, and no law enforcement the officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed. do both of the following:~~

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

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

(d) Whoever violates subsection (a) of this section is guilty of operating a motor vehicle while using an electronic wireless communication device. And shall be punished as provided in divisions (d)(1) to (5) of this section.;

(1) the offender shall be fined, and is subject to a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege as follows:

A. Except as provided in subsections (d)(1)(B), (C), (D), and (2) of this section, operating a motor vehicle while using an electronic wireless communication device is a minor misdemeanor.

B. If, within two years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of this section, O.R.C. 4511.204, or a substantially equivalent municipal ordinance, operating a motor vehicle while using an electronic wireless communication device is a misdemeanor of the fourth degree.

C. If, within two years of the violation, the offender has been convicted of or pleaded guilty to two or more prior violations of this section, O.R.C. 4511.204, or a substantially equivalent municipal ordinance, or if the offender causes serious injury to one or more persons, operating a motor vehicle while using an electronic wireless communication device is a misdemeanor of the third degree. The court also may impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for ninety days.

D. If the offender causes death to one or more persons, operating a motor vehicle while using an electronic wireless communication device is a misdemeanor of the first degree. The court also may impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for six months.

(2) On January 31 of each year, If the offender is in the category of offenders to whom division (d)(1)(a) of this section applies the department of public fine of one hundred fifty dollars under division (D)(1)(a) of this section and the assessment of points under division (d)(4) of this section, the offender instead may elect to attend the distracted driving safety course, as described in Ohio R.C. 4511.991. If the offender attends and successfully completes the course, the offender shall issue a report to be issued written evidence that the offender successfully completed the course. The offender shall not be required to pay the fine and shall not have the points assessed against that offender's driver's license if the offender submits the written evidence to the court within 90 days of the violation of division (a) of this section. However, successful completion of the course does not result in a dismissal of the general assembly that specifies the number of citations issued for violations charges for the violation, and the violation is a prior offense under divisions (d)(1)B

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- and C
of this section during the previous calendar year if the offender commits a subsequent violation or violations of division (a) of this section within two years of the offense for which the course was completed. This division does not apply with respect to any offender in the category of offenders to whom division (d)(1)B, C, or D of this section applies.
- (3) The court may impose any other penalty authorized under Ohio R.C. sections 2929.21 to 2929.28. However, the court shall not impose a fine or a suspension not otherwise specified in division (d)(1) of this section. The court also shall not impose a jail term or community residential sanction.
- (d) (4) Except as provided in this division (d) Whoever violates (2) of this section, points shall be assessed for a violation of subsection (a) hereof is guilty of a minor misdemeanor in accordance with O.R.C. 4510.036.
- (5) The offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
- (e) A prosecution for an offense in violation of this section does not preclude a prosecution for an offense in violation of a substantially equivalent state statute based on the same conduct. However, if an offender is convicted of or pleads guilty to a violation of this section and is also convicted of or pleads guilty to a violation of a substantially equivalent state statute based on the same conduct, the two offenses are allied offenses of similar import under O.R.C. 2941.25.
- (f)(1) A law enforcement officer does not have probable cause and shall not stop the operator of a motor vehicle for purposes of enforcing this section unless the officer visually observes the operator using, holding, or physically supporting with any part of the person's body the electronic wireless communications device.
- (2) A law enforcement officer who stops the operator of a motor vehicle, trackless trolley, or streetcar for a violation of division (A) of this section shall inform the operator that the operator may decline a search of the operator's electronic wireless communications device. The officer shall not do any of the following:
- (A) Access the device without a warrant, unless the operator voluntarily and unequivocally gives consent for the officer to access the device;
- (B) Confiscate the device while awaiting the issuance of a warrant to access the device;
- (C) Obtain consent from the operator to access the device through coercion or any other improper means. Any consent by the operator to access the device shall be voluntary and unequivocal before the officer may access the device without a warrant.
- (fg) As used in this section:
- (1) "Electronic wireless communications device" includes any of the following:
- (A) A wireless telephone;
- (B) A text-messaging device;
- (C) A personal digital assistant;
- (D) A computer, including a laptop computer and a computer tablet;
- (E) Any device capable of displaying a video, movie, broadcast television image, or visual image;
- (F) Any other substantially similar wireless device that is designed or used to communicate text.
- An "electronic wireless communications device" does not include a two-way radio transmitter or receiver used by a person who is licensed by the federal communications commission to participate in the amateur radio service.
- (2) "Voice-operated or hands-free device feature or function" means a device feature or function that allows the user to vocally compose or send, or to listen to a text-based communication a person to use an electronic wireless communications device without the use of either hand, except to

activate, deactivate, or deactivate ~~initiate the a~~ feature or function with a single touch or single swipe.

- (3) ~~"Write, send, or read a text-based communication Utility"~~ means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending entity specified in O. R.C. 4905.03 (C), (D), (E), or (G), or reading communications referred to as text messages, instant messages, or electronic mail.

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

State Law reference— (O.R.C. § 4511.204)

335.15 RULES ESTABLISHING SERVICE FEES.

- (a) Not later than ninety days after ~~the effective date of this amendment July 3, 2019,~~ the registrar of motor vehicles shall adopt rules in accordance with O.R.C. ch. 119 establishing a service fee that applies for purposes of O.R.C. §§ 4503.03, 4503.036, 4503.042, 4503.10, 4503.102, 4503.12, 4503.182, 4503.24, 4503.44, 4505.061, 4506.08, 4507.24, 4507.50, 4507.52, 4509.05, 4519.03, 4519.05, 4519.10, 4519.56, and 4519.69. The service fee shall be not more than \$5.25 and not less than \$3.50. When establishing the fee, the registrar shall consider inflation and any other factors the registrar considers to be relevant to the determination.
- (b) Not later than ninety days after ~~the effective date of this amendment July 3, 2019,~~ the registrar shall adopt rules in accordance with O.R.C. ch. 119 establishing prorated service fees that apply for purposes of multi-year registrations authorized under O.R.C. § 4503.103. When establishing the fee, the registrar shall consider inflation and any other factors the registrar considers to be relevant to the determination.

(Ord. No. 2017-53 , §§ 1, 6, 11-8-2017; ; Ord. No. 2020-08 , §§ 1, 6, 5-19-2020)

State Law reference— (O.R.C. § 4503.038)

335.20 FALLEN LINEMEN LINeworker LICENSE PLATES.

- (a) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of "Fallen Linemen Lineworker" license plates. An application made under this section may be combined with a request for a special reserved license plate under O.R.C. §§ 4503.40 or 4503.42. Upon receipt of the completed application and compliance by the applicant with subsections (b) and (c) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of "Fallen Linemen Lineworker" license plates and a validation sticker, or a validation sticker alone when required by O.R.C. § 4503.191.

In addition to the letters and numbers ordinarily inscribed thereon, "Fallen Linemen Lineworker" license plates shall be inscribed with words and markings selected and designed by the ~~fallen linemen organization~~ community foundation of Ohio's electric cooperatives and approved by the registrar. "Fallen Linemen Lineworker" license plates shall display county identification stickers that identify the county of registration as required under O.R.C. § 4503.19.

- (b) "Fallen Linemen Lineworker" license plates and a validation sticker, or validation sticker alone, shall be issued upon receipt of a contribution as provided in subsection (c)(1) of this section and upon payment of the regular license tax as prescribed under O.R.C. § 4503.04, any applicable motor vehicle license tax levied under O.R.C. ch. 4504, any applicable additional fee prescribed by O.R.C. §§ 4503.40 or 4503.42, a bureau of motor vehicles administrative fee of \$10.00, and compliance with all other applicable laws relating to the registration of motor vehicles.

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- (c) (1) For each application for registration and registration renewal notice the registrar receives under this section, the registrar shall collect a contribution of \$10.00. The registrar shall transmit this contribution into the state treasury to the credit of the license plate contribution fund created in O.R.C. § 4501.21.
- (2) The registrar shall deposit the bureau administrative fee of \$10.00, the purpose of which is to compensate the bureau for additional services required in the issuing of "Fallen Linemen Lineworker" license plates, into the state treasury to the credit of the state bureau of motor vehicles fund created in O.R.C. § 4501.25.

(Ord. No. 2017-53 , §§ 1, 6, 11-8-2017)

State Law reference— (O.R.C. § 4503.715)

337.10 LIGHTS ON SLOW-MOVING VEHICLES; EMBLEM REQUIRED.

~~(a) All vehicles other than bicycles, including animal-drawn vehicles and vehicles referred to in Section 337.01(c), not specifically required to be equipped with lights or other lighting devices by Section 337.02 to 337.09, shall at all times specified in Section 337.02, be equipped with at least one light displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle, and also shall be equipped with two lights displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or as an alternative, one light displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to 100 feet to the rear when illuminated by the lawful lower beams of headlights.~~

~~Lights and reflectors required or authorized by this section shall meet standards adopted by the Ohio Director of Public Safety.~~

~~(b) All boat trailers, farm machinery and other machinery, including all road construction machinery, upon a street or highway, except when being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used, or when operating or traveling within the limits of a construction area designated by the Ohio Director of Transportation, or the Municipal or County Engineer, when such construction area is marked in accordance with requirements of the Director and the Manual of Uniform Traffic Control Devices, as set forth in O.R.C. § 4511.09, which is designed for operation at a speed of 25 miles per hour or less shall be operated at a speed not exceeding 25 miles per hour, and shall display a triangular slow-moving vehicle emblem (SMV). The emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. The Ohio Director of Public Safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for SMV emblems referred to in this section shall correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers.~~

~~A unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour may be operated on a street or highway at a speed greater than 25 miles per hour provided it is operated in accordance with this section.~~

~~As used in this subsection (b), "machinery" does not include any vehicle designed to be drawn by an animal.~~

~~(c) The use of the SMV emblem shall be restricted to animal-drawn vehicles, and to the slow-moving vehicles specified in subsection (b) hereof operating or traveling within the limits of the highway. Its use on slow-moving vehicles being transported upon other types of vehicles or on any other type of vehicle or stationary object on the highway is prohibited.~~

~~(d) (1) No person shall sell, lease, rent or operate any boat trailer, farm machinery or other machinery defined as a slow-moving vehicle in subsection (b) hereof, except those units designed to be completely mounted on a primary power unit, which is manufactured or assembled on or after~~

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April 1, 1966, unless the vehicle is equipped with a slow-moving vehicle emblem mounting device as specified in subsection (b) hereof.

(2) No person shall sell, lease, rent, or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour unless the unit displays a slow-moving vehicle emblem as specified in subsection (b) of this section and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/SAE S584 JAN2005, agricultural equipment; speed identification symbol (SIS).

(e) Any boat trailer, farm machinery, or other machinery defined as a slow-moving vehicle in subsection (b) of this section, in addition to the use of the slow-moving vehicle emblem, and any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour, in addition to the display of a speed identification symbol may be equipped with a red flashing light that shall be visible from a distance of not less than 1,000 feet to the rear at all times specified in Section 337.02. When a double-faced light is used, it shall display amber light to the front and red light to the rear.

In addition to the lights described in this subsection, farm machinery and motor vehicles escorting farm machinery may display a flashing, oscillating or rotating amber light, as permitted by Section 337.16, and also may display simultaneously flashing turn signals or warning lights, as permitted by that section.

(f) Every animal-drawn vehicle upon a street or highway shall at all times be equipped in one of the following ways:

(1) With a slow-moving vehicle emblem complying with subsection (b) hereof;

(2) With alternate reflective material complying with rules adopted under this subsection (f);

(3) With both a slow-moving vehicle emblem and alternate reflective material as specified in this subsection (f).

The Ohio Director of Public Safety, subject to O.R.C. Ch. 119, shall adopt rules establishing standards and specifications for the position of mounting of the alternate reflective material authorized by this subsection (f). The rules shall permit, as a minimum, the alternate reflective material to be black, gray or silver in color. The alternate reflective material shall be mounted on the animal-drawn vehicle so as to be visible at all times specified in Section 337.02, from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps.

(g) Every unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour shall display a slow-moving vehicle emblem and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/SAE S584 JAN2005, agricultural equipment; speed identification symbol (SIS) when the unit is operated upon a street or highway, irrespective of the speed at which the unit is operated on the street or highway. The speed identification symbol shall indicate the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate. The display of the speed identification symbol shall be in accordance with the standard prescribed in this subsection.

If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than 25 miles per hour is being operated on a street or highway at a speed greater than 25 miles per hour and is towing, pulling or otherwise drawing a unit of farm machinery, the unit of farm machinery shall display a slow-moving vehicle emblem and a speed identification symbol that is the same as the speed identification symbol that is displayed on the agricultural tractor.

(h) When an agricultural tractor that is designed by its manufacturer to operate at a speed greater than 25 miles per hour is being operated on a street or highway at a speed greater than 25 miles per hour, the operator shall possess some documentation published or provided by the manufacturer indicating the

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~~maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.~~

~~(i) As used in this section, "boat trailer" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of 25 miles per hour or less.~~

~~(j) Whoever violates this section is guilty of a minor misdemeanor.~~

As used in sections O.R.C 4513.11 to 4513.115:

(a) "Boat trailer" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(b) "Slow-moving vehicle" and "SMV" mean a boat trailer, unit of farm machinery, road construction machinery, or other machinery designed by the manufacturer to operate at a speed of twenty-five miles per hour or less. "Slow-moving vehicle" and "SMV" do not include a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle.

State Law reference— (O.R.C. § 4513.11)

337.16 NUMBER OF LIGHTS; LIMITATIONS ON FLASHING, OSCILLATING OR ROTATING LIGHTS.

(a) Whenever a motor vehicle equipped with headlights also is equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than 300 candle power, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.

(b) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights or auxiliary driving lights, that projects a beam of light of an intensity greater than 300 candle power, shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing.

(2) The prohibition in division (c)(1) of this section does not apply to any of the following:

~~Flashing lights are prohibited on motor A. Emergency vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. This prohibition does not apply to emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash, or recyclable materials on the roadside, rural mail delivery vehicles, vehicles transporting preschool children as provided in O. R.C._4513.182, highway maintenance vehicles, funeral hearses, funeral-escort vehicles and similar equipment operated by the department or local authorities, which shall be provided such vehicles are equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating amber light, but shall not display a flashing, oscillating or rotating light of any other color, nor to vehicles or machinery permitted by Section 337.10 to have a flashing red light.;~~

B. Vehicles or machinery permitted by O. R.C. 4513.111 to have a flashing red light;

~~(2) When used on a street or highway, farm C. Farm machinery and vehicles escorting farm machinery may be , provided such machinery and vehicles are equipped with and display, when used on a street or highway, a flashing, oscillating, or rotating amber light, and the prohibition contained in subsection (c)(1) hereof does not apply to such machinery or vehicles. Farm machinery also may display the lights described in Section 337.10 O. R.C. 4513.111.~~

D. A funeral hearse or funeral escort vehicle, provided that the funeral hearse or funeral escort vehicle is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating purple or amber light.

E. A vehicle being used for emergency preparedness, response, and recovery activities, as those terms are defined in O. R.C. 5502.21, that is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating amber or red and white light, provided that the vehicle is being operated by a person from one of the following and the vehicle is clearly marked with the applicable agency's or authority's insignia:

(i) The Ohio emergency management agency;

(ii) A countywide emergency management agency established under O. R.C. 5502.26;

(iii) A regional authority for emergency management established under O. R.C. 5502.27;

(iv) A program for emergency management established under O. R.C. 5502.271.

(5) Division (C)(1) of this section does not apply to animal-drawn vehicles subject to O.R.C. 4513.114.

(d) (1) Except a person operating a public safety vehicle, as defined in O. R.C. 4511.01(E), an emergency management agency vehicle, as described in division (c)(2)E of this section, or a school bus, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light.

(2) Except a person operating a public safety vehicle, as defined in Section 301.27, or a school bus, no person shall operate, move or park upon or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light; and except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the State or Municipality, operating a public safety vehicle when on duty, no person shall operate, move or park upon, or permit to stand within the right-of-way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

(e) This section does not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights either on farm machinery or vehicles escorting farm machinery, when used on a street or highway.

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

State Law reference— (O.R.C. § 4513.17)

337.22 WINDSHIELD AND WINDSHIELD WIPER; SIGN OR POSTER THEREON.

- (a) No person shall drive any motor vehicle on a street or highway, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.
- (b) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster or decal not to exceed four inches in height by six inches in width. No sign, poster or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.
- (2) Subsection (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if either of the device meets both of the following apply to the device:
- A. It is a "vehicle safety technology" as defined in 49 C.F.R. 393.5. and complies with 49 C.F.R. 393.60(e)(1)(ii).
- B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals, and it does not conceal the vehicle identification number.
- ~~B. It does not conceal the vehicle identification number.~~
- (3) Subsection (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if either of the device meets both of the following apply to the device:
- A. It is a "vehicle safety technology" as defined in 49 C.F.R. 393.5. and complies with 49 C.F.R. 393.60(e)(1)(ii).
- B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals, and it is mounted not more than eight and one-half inches below the upper edge of the windshield.
- ~~B. It is mounted not more than six inches below the upper edge of the windshield and is outside the area swept by the vehicle's windshield wipers.~~
- (c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.
- (d) Whoever violates this section is guilty of a minor misdemeanor.

State Law reference— (O.R.C. § 4513.24)

337.26 CHILD RESTRAINT SYSTEM USAGE.

- (a) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in O.R.C. § 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor safety standards:
- (1) A child who is less than four years of age;

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- (2) A child who weighs less than 40 pounds.
- (b) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased or otherwise under the control of a nursery school, or day-child care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:
- (1) A child who is less than four years of age;
- (2) A child who weighs less than 40 pounds.
- (c) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by subsection (a) or (b) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in O.R.C. § 4511.01 or a vehicle that is regulated under O.R.C. § 5104.011, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.
- (d) When any child who is at least eight years of age but not older than 15 years of age and who is not otherwise required by subsection (a), (b) or (c) hereof to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in O.R.C. § 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in O.R.C. § 4513.263.
- (e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of subsection (c) or (d) of this section or causing the arrest of or commencing a prosecution of a person for a violation of subsection (c) or (d) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed.
- (f) The Ohio Director of Public Safety shall adopt such rules as are necessary to carry out this section.
- (g) The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat or an occupant restraining device as required by this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.
- (h) This section does not apply when an emergency exists that threatens the life of any person operating or occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this state under O.R.C. Ch. 4731 or a chiropractor licensed to practice in this state under O.R.C. Ch. 4734 that states that the child who otherwise would be required to be restrained under this section has a physical impairment that makes use of a child restraint system, booster seat or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician or chiropractor as noted on the affidavit.

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- (i) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation or summons issued for violating this section.
- (j) Whoever violates subsection (a), (b), (c) or (d) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than one child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:
- (1) Except as otherwise provided in subsection (j)(2) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than \$25.00 nor more than \$75.00.
 - (2) If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a), (b), (c) or (d) of this section or of a state law or municipal ordinance that is substantially similar to any of those subsections, the offender is guilty of a misdemeanor of the fourth degree.

State Law reference— (O.R.C. § 4511.81)

341.01 DEFINITIONS.

As used in this chapter:

Alcohol concentration means the concentration of alcohol in a person's blood, breath or urine. When expressed as a percentage, it means grams of alcohol per the following:

- (1) One hundred milliliters of whole blood, blood serum, or blood plasma;
- (2) Two hundred ten liters of breath;
- (3) One hundred milliliters of urine.

Commercial driver's license (1) means a license issued in accordance with O.R.C. Ch. 4506 that authorizes an individual to drive a commercial motor vehicle. Except as otherwise specifically provided, "commercial driver's license" includes an "enhanced commercial driver's license."

(2) "Enhanced commercial driver's license" means a commercial driver's license issued in accordance with sections O.R.C. 4507.021 and 4506.072 that denotes citizenship and identity and is approved by the United States secretary of homeland security or other designated federal agency for purposes of entering the United States.

Commercial motor vehicle means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:

- (1) Any combination of vehicles with a gross vehicle weight or combined gross vehicle weight rating of 26,001 pounds or more, provided the gross vehicle weight or gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
- (2) Any single vehicle with a gross vehicle weight or gross vehicle weight rating of 26,001 pounds or more;
- (3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport 16 or more passengers including the driver;
- (4) Any school bus with a gross vehicle weight or gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than 16 passengers including the driver;
- (5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;
- (6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Motor Carrier Safety Administration to

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be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.

Controlled substance means all of the following:

- (1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;
- (2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;
- (3) Any drug of abuse.

Disqualification means any of the following:

- (1) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;
- (2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;
- (3) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.

Drive means to drive, operate or be in physical control of a motor vehicle.

Driver means any person who drives, operates or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.

Driver's license means a license issued by the Ohio Bureau of Motor Vehicles that authorizes an individual to drive.

Drug of abuse means any controlled substance, dangerous drug as defined in O.R.C. § 4729.01, harmful intoxicant as defined in O.R.C. 2925.01, or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.

Employer means any person, including the Federal Government, any state and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.

Endorsement means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.

Farm truck means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than 150 miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than 150 miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this subsection and is not used in the operations of a motor carrier, as defined in O.R.C. § 4923.01.

Fatality means the death of a person as the result of a motor vehicle accident occurring not more than 365 days prior to the date of a death.

Felony means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this state, regardless of the penalty that may be imposed.

Foreign jurisdiction means any jurisdiction other than a state.

Gross vehicle weight rating means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of each towed unit.

Hazardous materials means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73, as amended.

Motor vehicle means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer or semitrailer operated exclusively on a rail.

Out-of-service order means a declaration by an authorized enforcement officer of a federal, state, local, Canadian or Mexican jurisdiction declaring that a driver, commercial motor vehicle or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5. *Public safety vehicle* has the same meaning as in divisions (E)(1) and (3) of O.R.C. § 4511.01.

Recreational vehicle includes every vehicle that is defined as a recreational vehicle in O.R.C. § 4501.01 and is used exclusively for purposes other than engaging in business for profit.

School bus has the same meaning as in O.R.C. § 4511.01.

State means a state of the United States and includes the District of Columbia.

Tester means a person or entity acting pursuant to a valid agreement entered into pursuant to O.R.C. § 4506.09.

United States means the 50 states and the District of Columbia.

Vehicle has the same meaning as in O.R.C. § 4511.01.

State Law reference— (O.R.C. § 4506.01)

341.04 PROHIBITIONS.

(a) No person shall do any of the following:

- (1) Drive a commercial motor vehicle while having in the person's possession or otherwise under the person's control more than one valid driver's license issued by this State, any other state or by a foreign jurisdiction;
- (2) Drive a commercial motor vehicle on a highway in this Municipality in violation of an out-of-service order, while the person's driving privilege is suspended, revoked or canceled, or while the person is subject to disqualification;
- (3) Drive a motor vehicle on a highway in this Municipality under authority of a commercial driver's license issued by another state or a foreign jurisdiction, after having been a resident of this State for 30 days or longer;
- (4) Knowingly provide false statements or engage in any fraudulent act related to testing for a commercial driver's license as required in O.R.C. 4506.09.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.

(1) Whoever violates division (a)(4) of this section is guilty of falsification, a misdemeanor of the third degree. In addition, the provision under O.R.C. 4507.19 apply.

State Law reference— (O.R.C. § 4506.04)

341.05 CRIMINAL OFFENSES.

(a) No person who holds a commercial driver's license, or commercial driver's license temporary instruction permit or who operates a motor vehicle for which a commercial driver's license or permit is required shall do any of the following:

- (1) Drive a commercial motor vehicle while having a measureable or detectable amount of alcohol or of a controlled substance in the person's blood, breath or urine;
 - (2) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one percent or more by whole blood or breath;
 - (3) Drive a commercial motor vehicle while having an alcohol concentration of forty-eight-thousandths of one percent or more by blood serum or blood plasma;
 - (4) Drive a commercial motor vehicle while having an alcohol concentration of fifty-six-thousandths of one percent or more by urine;
 - (5) Drive a motor vehicle while under the influence of a controlled substance;
 - (6) Drive a motor vehicle in violation of O.R.C. § 4511.19 or a municipal OVI ordinance as defined in O.R.C. § 4511.181;
 - (7) Use a motor vehicle in the commission of a felony;
 - (8) Refuse to submit to a test under O.R.C. § 4506.17 or 4511.191;
 - (9) Operate a commercial motor vehicle while the person's commercial driver's license or permit or other commercial driving privileges are revoked, suspended, canceled, or disqualified;
 - (10) Cause a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the offenses of aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter;
 - (11) Fail to stop after an accident in violation of Sections 335.12 to 335.14;
 - (12) Drive a commercial motor vehicle in violation of any provision of O.R.C. § 4511.61 to 4511.63 or any federal or local law or ordinance pertaining to railroad-highway grade crossings;
 - (13) Use a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in O.R.C. § 3719.01 or the possession with intent to manufacture, distribute, or dispose a controlled substance.
 - (14) Use a commercial motor vehicle in the commission of a violation of O.R.C. § 2905.32 or any other substantially equivalent offense established under federal law or the laws of another state.
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree.
- (c) The offenses established under this section are strict liability offenses and O.R.C. § 2901.20 does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

State Law reference— (O.R.C. § 4506.15)

351.04 PARKING NEAR CURB; HANDICAPPED PERSONS WITH DISABILITIES LOCATIONS ON PUBLIC AND PRIVATE LOTS AND GARAGES.

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

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width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approves of the elimination of the angled parking space.

- B. Replacement, repainting or any other repair performed by or on behalf of the municipal corporation of the lines that indicate the angled parking space does not constitute an intent by the municipal corporation to eliminate the angled parking space.

(c)

- (1) A. Except as provided in subsection (c)(1)B. hereof, no vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.

- B. The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.

- (2) The operator of a motorcycle may back the motorcycle into a parking space that is located on the side of, and parallel to, a road or highway. The motorcycle may face any direction when so parked. Not more than two motorcycles at a time shall be parked in a parking space as described in subsection (c)(2) of this section irrespective of whether or not the space is metered.

- (d) Notwithstanding any provision of this Code or any rule, air compressors, tractors, trucks and other equipment, while being used in the construction, reconstruction, installation, repair or removal of facilities near, on, over or under a street, may stop, stand or park where necessary in order to perform such work, provided a flagman is on duty, or warning signs or lights are displayed as may be prescribed by the Ohio Director of Transportation.

- (e) ~~Special Accessible~~ parking locations and privileges for persons with disabilities that limit or impair the ability to walk, ~~also known as handicapped parking spaces or disability parking spaces~~ shall be provided and designated by the Municipality and all agencies and instrumentalities thereof at all offices and facilities, where parking is provided, whether owned, rented or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators and ramps. All elevated signs posted in accordance with this subsection and O.R.C. § 3781.111(C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet. If a new sign or a replacement sign designating a ~~special~~ an accessible parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the ~~special~~-designated accessible parking location if the motor vehicle is not legally entitled to be parked in that location.

(f)

- (1) A. No person shall stop, stand or park any motor vehicle at ~~special-accessible~~ parking locations provided under subsection (e) hereof, or at ~~special accessible~~ clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with subsection (e) hereof, unless one of the following applies:

1. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or ~~special~~ accessible license plates;
2. The motor vehicle is being operated by or for the transport of a ~~handicapped~~ person with a disability and is displaying a parking card or ~~special-handicapped~~ accessible license plates.

- B. Any motor vehicle that is parked in a ~~special~~ an accessible marked parking location in violation of subsection (f)(1)A. of this section may be towed or otherwise removed from the parking

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location by the Police Department. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles.

C. If a person is charged with a violation of subsection (f)(1)A. of this section, it is an affirmative defense to the charge that the person suffered an injury not more than 72 hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in O.R.C. § 4503.44(A)(1).

(2) No person shall stop, stand or park any motor vehicle in an area that is commonly known as an access aisle, which area is marked by diagonal stripes and is located immediately adjacent a special an accessible parking location provided under subsection (e) of this section or at a special an accessible clearly marked parking location provided in or on a privately owned parking lot, parking garage, or other parking area and designated in accordance with that subsection.

(g) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a ~~temporary removable windshield placard or special accessible~~ license plates, or when a motor vehicle is being operated by or for the transport of a ~~handicapped person with a disability~~ and is displaying a parking card or special ~~handicapped accessible~~ license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

(h) As used in this section:

- (1) ~~Handicapped person~~ Person with a disability means any person who has lost the use of one or both legs, or one or both arms, who is blind, deaf or ~~so severely handicapped as to be unable to~~ move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary or other ~~handicapping disabling~~ condition.
- (2) Person with a disability that limits or impairs the ability to walk has the same meaning as in O.R.C. § 4503.44.
- (3) Special Accessible license plates and removable windshield placard mean any license plates or standard removable windshield placard, permanent removable windshield placard, or temporary removable windshield placard issued under O.R.C. § 4503.41 or 4503.44, and also mean any substantially similar license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country or sovereignty.

State Law reference— (O.R.C. § 4511.69)

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

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

City Council

Tom Counts, Mayor

Leif Carlson David Lester Christina Drummond Heather Karr Ferzan Ahmed Tyler Herrmann

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

Section 10. The adoption date of this ordinance is 5/21/2024 and the effective date of this ordinance shall be 6/21/2024.

ORDAINED this 21 day of May, 2024.

City of Powell, Ohio

X [Signature]
Mayor

ATTEST:

X [Signature]
City Clerk

I certify that the foregoing ordinance was duly passed by the governing authority of the said City Council on this 21 day of May, 2024.

X [Signature]
City Clerk

APPROVED AS TO FORM:

X [Signature]
City Attorney