

As Introduced

132nd General Assembly

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H. B. No. 278

Representatives Patton, Kelly

A BILL

To amend section 2903.08 of the Revised Code to
include negligently causing serious physical
harm to a law enforcement officer while
operating a motor vehicle or other specified
mode of transportation as a violation of the
offense of vehicular assault.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2903.08 of the Revised Code be
amended to read as follows:

Sec. 2903.08. (A) No person, while operating or
participating in the operation of a motor vehicle, motorcycle,
snowmobile, locomotive, watercraft, or aircraft, shall cause
serious physical harm to another person or another's unborn in
any of the following ways:

(1) (a) As the proximate result of committing a violation
of division (A) of section 4511.19 of the Revised Code or of a
substantially equivalent municipal ordinance;

(b) As the proximate result of committing a violation of
division (A) of section 1547.11 of the Revised Code or of a
substantially equivalent municipal ordinance;

(c) As the proximate result of committing a violation of 20
division (A) (3) of section 4561.15 of the Revised Code or of a 21
substantially equivalent municipal ordinance. 22

(2) In one of the following ways: 23

(a) As the proximate result of committing, while operating 24
or participating in the operation of a motor vehicle or 25
motorcycle in a construction zone, a reckless operation offense, 26
provided that this division applies only if the person to whom 27
the serious physical harm is caused or to whose unborn the 28
serious physical harm is caused is in the construction zone at 29
the time of the offender's commission of the reckless operation 30
offense in the construction zone and does not apply as described 31
in division (E) of this section; 32

(b) Recklessly. 33

(3) As the proximate result of committing, while operating 34
or participating in the operation of a motor vehicle or 35
motorcycle in a construction zone, a speeding offense, provided 36
that this division applies only if the person to whom the 37
serious physical harm is caused or to whose unborn the serious 38
physical harm is caused is in the construction zone at the time 39
of the offender's commission of the speeding offense in the 40
construction zone and does not apply as described in division 41
(E) of this section. 42

(4) Negligently, if the person to whom serious physical 43
harm is caused is a law enforcement officer. 44

(B) (1) Whoever violates division (A) (1) of this section is 45
guilty of aggravated vehicular assault. Except as otherwise 46
provided in this division, aggravated vehicular assault is a 47
felony of the third degree. Aggravated vehicular assault is a 48

felony of the second degree if any of the following apply: 49

(a) At the time of the offense, the offender was driving 50
under a suspension imposed under Chapter 4510. or any other 51
provision of the Revised Code. 52

(b) The offender previously has been convicted of or 53
pleaded guilty to a violation of this section. 54

(c) The offender previously has been convicted of or 55
pleaded guilty to any traffic-related homicide, manslaughter, or 56
assault offense. 57

(d) The offender previously has been convicted of or 58
pleaded guilty to three or more prior violations of section 59
4511.19 of the Revised Code or a substantially equivalent 60
municipal ordinance within the previous ten years. 61

(e) The offender previously has been convicted of or 62
pleaded guilty to three or more prior violations of division (A) 63
of section 1547.11 of the Revised Code or of a substantially 64
equivalent municipal ordinance within the previous ten years. 65

(f) The offender previously has been convicted of or 66
pleaded guilty to three or more prior violations of division (A) 67
(3) of section 4561.15 of the Revised Code or of a substantially 68
equivalent municipal ordinance within the previous ten years. 69

(g) The offender previously has been convicted of or 70
pleaded guilty to three or more prior violations of any 71
combination of the offenses listed in division (B) (1) (d), (e), 72
or (f) of this section. 73

(h) The offender previously has been convicted of or 74
pleaded guilty to a second or subsequent felony violation of 75
division (A) of section 4511.19 of the Revised Code. 76

(2) In addition to any other sanctions imposed pursuant to 77
division (B)(1) of this section, except as otherwise provided in 78
this division, the court shall impose upon the offender a class 79
three suspension of the offender's driver's license, commercial 80
driver's license, temporary instruction permit, probationary 81
license, or nonresident operating privilege from the range 82
specified in division (A)(3) of section 4510.02 of the Revised 83
Code. If the offender previously has been convicted of or 84
pleaded guilty to a violation of this section, any traffic- 85
related homicide, manslaughter, or assault offense, or any 86
traffic-related murder, felonious assault, or attempted murder 87
offense, the court shall impose either a class two suspension of 88
the offender's driver's license, commercial driver's license, 89
temporary instruction permit, probationary license, or 90
nonresident operating privilege from the range specified in 91
division (A)(2) of that section or a class one suspension as 92
specified in division (A)(1) of that section. 93

(C)(1) Whoever violates division (A)(2) ~~or, (3), or (4)~~ 94
of this section is guilty of vehicular assault and shall be 95
punished as provided in divisions (C)(2) and (3) of this 96
section. 97

(2) Except as otherwise provided in this division, 98
vehicular assault committed in violation of division (A)(2) of 99
this section is a felony of the fourth degree. Vehicular assault 100
committed in violation of division (A)(2) of this section is a 101
felony of the third degree if, at the time of the offense, the 102
offender was driving under a suspension imposed under Chapter 103
4510. or any other provision of the Revised Code, if the 104
offender previously has been convicted of or pleaded guilty to a 105
violation of this section or any traffic-related homicide, 106
manslaughter, or assault offense, or if, in the same course of 107

conduct that resulted in the violation of division (A)(2) of 108
this section, the offender also violated section 4549.02, 109
4549.021, or 4549.03 of the Revised Code. 110

In addition to any other sanctions imposed, the court 111
shall impose upon the offender a class four suspension of the 112
offender's driver's license, commercial driver's license, 113
temporary instruction permit, probationary license, or 114
nonresident operating privilege from the range specified in 115
division (A)(4) of section 4510.02 of the Revised Code or, if 116
the offender previously has been convicted of or pleaded guilty 117
to a violation of this section, any traffic-related homicide, 118
manslaughter, or assault offense, or any traffic-related murder, 119
felonious assault, or attempted murder offense, a class three 120
suspension of the offender's driver's license, commercial 121
driver's license, temporary instruction permit, probationary 122
license, or nonresident operating privilege from the range 123
specified in division (A)(3) of that section. 124

(3) Except as otherwise provided in this division, 125
vehicular assault committed in violation of division (A)(3) or 126
(4) of this section is a misdemeanor of the first degree. 127
Vehicular assault committed in violation of division (A)(3) of 128
this section is a felony of the fourth degree if, at the time of 129
the offense, the offender was driving under a suspension imposed 130
under Chapter 4510. or any other provision of the Revised Code 131
or if the offender previously has been convicted of or pleaded 132
guilty to a violation of this section or any traffic-related 133
homicide, manslaughter, or assault offense. 134

In addition to any other sanctions imposed, the court 135
shall impose upon the offender a class four suspension of the 136
offender's driver's license, commercial driver's license, 137

temporary instruction permit, probationary license, or 138
nonresident operating privilege from the range specified in 139
division (A) (4) of section 4510.02 of the Revised Code or, if 140
the offender previously has been convicted of or pleaded guilty 141
to a violation of this section, any traffic-related homicide, 142
manslaughter, or assault offense, or any traffic-related murder, 143
felonious assault, or attempted murder offense, a class three 144
suspension of the offender's driver's license, commercial 145
driver's license, temporary instruction permit, probationary 146
license, or nonresident operating privilege from the range 147
specified in division (A) (3) of section 4510.02 of the Revised 148
Code. 149

(D) (1) The court shall impose a mandatory prison term on 150
an offender who is convicted of or pleads guilty to a violation 151
of division (A) (1) of this section. 152

(2) The court shall impose a mandatory prison term on an 153
offender who is convicted of or pleads guilty to a violation of 154
division (A) (2) of this section or a felony violation of 155
division (A) (3) of this section if either of the following 156
applies: 157

(a) The offender previously has been convicted of or 158
pleaded guilty to a violation of this section or section 2903.06 159
of the Revised Code. 160

(b) At the time of the offense, the offender was driving 161
under suspension under Chapter 4510. or any other provision of 162
the Revised Code. 163

(3) The court shall impose a mandatory jail term of at 164
least seven days on an offender who is convicted of or pleads 165
guilty to a misdemeanor violation of division (A) (3) of this 166

section and may impose upon the offender a longer jail term as 167
authorized pursuant to section 2929.24 of the Revised Code. 168

(E) Divisions (A) (2) (a) and (3) of this section do not 169
apply in a particular construction zone unless signs of the type 170
described in section 2903.081 of the Revised Code are erected in 171
that construction zone in accordance with the guidelines and 172
design specifications established by the director of 173
transportation under section 5501.27 of the Revised Code. The 174
failure to erect signs of the type described in section 2903.081 175
of the Revised Code in a particular construction zone in 176
accordance with those guidelines and design specifications does 177
not limit or affect the application of division (A) (1) or (2) (b) 178
of this section in that construction zone or the prosecution of 179
any person who violates either of those divisions in that 180
construction zone. 181

(F) As used in this section: 182

(1) "Mandatory prison term" and "mandatory jail term" have 183
the same meanings as in section 2929.01 of the Revised Code. 184

(2) "Traffic-related homicide, manslaughter, or assault 185
offense" and "traffic-related murder, felonious assault, or 186
attempted murder offense" have the same meanings as in section 187
2903.06 of the Revised Code. 188

(3) "Construction zone" has the same meaning as in section 189
5501.27 of the Revised Code. 190

(4) "Reckless operation offense" and "speeding offense" 191
have the same meanings as in section 2903.06 of the Revised 192
Code. 193

(G) For the purposes of this section, when a penalty or 194
suspension is enhanced because of a prior or current violation 195

of a specified law or a prior or current specified offense, the 196
reference to the violation of the specified law or the specified 197
offense includes any violation of any substantially equivalent 198
municipal ordinance, former law of this state, or current or 199
former law of another state or the United States. 200

Section 2. That existing section 2903.08 of the Revised 201
Code is hereby repealed. 202