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132nd General Assembly
Regular Session
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Sub. H. B. No. 278

A BILL

To amend section 2903.08 of the Revised Code to 1
include the following as vehicular assault: 2
causing serious physical harm to a person as a 3
proximate result of violating the state "move 4
over" law while operating a motor vehicle that 5
is approaching certain stationary vehicles. 6

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

Section 1. That section 2903.08 of the Revised Code be 7
amended to read as follows: 8

Sec. 2903.08. (A) No person, while operating or 9
participating in the operation of a motor vehicle, motorcycle, 10
snowmobile, locomotive, watercraft, or aircraft, shall cause 11
serious physical harm to another person or another's unborn in 12
any of the following ways: 13

(1) (a) As the proximate result of committing a violation 14
of division (A) of section 4511.19 of the Revised Code or of a 15
substantially equivalent municipal ordinance; 16

(b) As the proximate result of committing a violation of 17



division (A) of section 1547.11 of the Revised Code or of a 18
substantially equivalent municipal ordinance; 19

(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

(c) As the proximate result of committing, while operating 34
or participating in the operation of a motor vehicle or 35
motorcycle, a violation of division (C) of section 4511.213 of 36
the Revised Code. The offense established under division (A) (2) 37
(c) of this section is a strict liability offense and section 38
2901.20 of the Revised Code does not apply. The designation of 39
this offense as a strict liability offense shall not be 40
construed to imply that any other offense, for which there is no 41
specified degree of culpability, is not a strict liability 42
offense. 43

(3) As the proximate result of committing, while operating 44
or participating in the operation of a motor vehicle or 45
motorcycle in a construction zone, a speeding offense, provided 46

that this division applies only if the person to whom the 47
serious physical harm is caused or to whose unborn the serious 48
physical harm is caused is in the construction zone at the time 49
of the offender's commission of the speeding offense in the 50
construction zone and does not apply as described in division 51
(E) of this section. 52

(B) (1) Whoever violates division (A) (1) of this section is 53
guilty of aggravated vehicular assault. Except as otherwise 54
provided in this division, aggravated vehicular assault is a 55
felony of the third degree. Aggravated vehicular assault is a 56
felony of the second degree if any of the following apply: 57

(a) At the time of the offense, the offender was driving 58
under a suspension imposed under Chapter 4510. or any other 59
provision of the Revised Code. 60

(b) The offender previously has been convicted of or 61
pleaded guilty to a violation of this section. 62

(c) The offender previously has been convicted of or 63
pleaded guilty to any traffic-related homicide, manslaughter, or 64
assault offense. 65

(d) The offender previously has been convicted of or 66
pleaded guilty to three or more prior violations of section 67
4511.19 of the Revised Code or a substantially equivalent 68
municipal ordinance within the previous ten years. 69

(e) The offender previously has been convicted of or 70
pleaded guilty to three or more prior violations of division (A) 71
of section 1547.11 of the Revised Code or of a substantially 72
equivalent municipal ordinance within the previous ten years. 73

(f) The offender previously has been convicted of or 74
pleaded guilty to three or more prior violations of division (A) 75

(3) of section 4561.15 of the Revised Code or of a substantially equivalent municipal ordinance within the previous ten years. 76
77

(g) The offender previously has been convicted of or 78
pleaded guilty to three or more prior violations of any 79
combination of the offenses listed in division (B) (1) (d), (e), 80
or (f) of this section. 81

(h) The offender previously has been convicted of or 82
pleaded guilty to a second or subsequent felony violation of 83
division (A) of section 4511.19 of the Revised Code. 84

(2) In addition to any other sanctions imposed pursuant to 85
division (B) (1) of this section, except as otherwise provided in 86
this division, the court shall impose upon the offender a class 87
three suspension of the offender's driver's license, commercial 88
driver's license, temporary instruction permit, probationary 89
license, or nonresident operating privilege from the range 90
specified in division (A) (3) of section 4510.02 of the Revised 91
Code. If the offender previously has been convicted of or 92
pleaded guilty to a violation of this section, any traffic- 93
related homicide, manslaughter, or assault offense, or any 94
traffic-related murder, felonious assault, or attempted murder 95
offense, the court shall impose either a class two suspension of 96
the offender's driver's license, commercial driver's license, 97
temporary instruction permit, probationary license, or 98
nonresident operating privilege from the range specified in 99
division (A) (2) of that section or a class one suspension as 100
specified in division (A) (1) of that section. 101

(C) (1) Whoever violates division (A) (2) or (3) of this 102
section is guilty of vehicular assault and shall be punished as 103
provided in divisions (C) (2) ~~and~~, (3), and (4) of this section. 104

(2) Except as otherwise provided in this division, 105
vehicular assault committed in violation of division (A) (2) (a) 106
or (b) of this section is a felony of the fourth degree. 107
Vehicular assault committed in violation of division (A) (2) (a) 108
or (b) of this section is a felony of the third degree if, at 109
the time of the offense, the offender was driving under a 110
suspension imposed under Chapter 4510. or any other provision of 111
the Revised Code, if the offender previously has been convicted 112
of or pleaded guilty to a violation of this section or any 113
traffic-related homicide, manslaughter, or assault offense, or 114
if, in the same course of conduct that resulted in the violation 115
of division (A) (2) (a) or (b) of this section, the offender also 116
violated section 4549.02, 4549.021, or 4549.03 of the Revised 117
Code. 118

In addition to any other sanctions imposed, the court 119
shall impose upon the offender a class four suspension of the 120
offender's driver's license, commercial driver's license, 121
temporary instruction permit, probationary license, or 122
nonresident operating privilege from the range specified in 123
division (A) (4) of section 4510.02 of the Revised Code or, if 124
the offender previously has been convicted of or pleaded guilty 125
to a violation of this section, any traffic-related homicide, 126
manslaughter, or assault offense, or any traffic-related murder, 127
felonious assault, or attempted murder offense, a class three 128
suspension of the offender's driver's license, commercial 129
driver's license, temporary instruction permit, probationary 130
license, or nonresident operating privilege from the range 131
specified in division (A) (3) of that section. 132

(3) Except as otherwise provided in this division, 133
vehicular assault committed in violation of division (A) (3) of 134
this section is a misdemeanor of the first degree. Vehicular 135

assault committed in violation of division (A) (3) of this 136
section is a felony of the fourth degree if, at the time of the 137
offense, the offender was driving under a suspension imposed 138
under Chapter 4510. or any other provision of the Revised Code 139
or if the offender previously has been convicted of or pleaded 140
guilty to a violation of this section or any traffic-related 141
homicide, manslaughter, or assault offense. 142

In addition to any other sanctions imposed, the court 143
shall impose upon the offender a class four suspension of the 144
offender's driver's license, commercial driver's license, 145
temporary instruction permit, probationary license, or 146
nonresident operating privilege from the range specified in 147
division (A) (4) of section 4510.02 of the Revised Code or, if 148
the offender previously has been convicted of or pleaded guilty 149
to a violation of this section, any traffic-related homicide, 150
manslaughter, or assault offense, or any traffic-related murder, 151
felonious assault, or attempted murder offense, a class three 152
suspension of the offender's driver's license, commercial 153
driver's license, temporary instruction permit, probationary 154
license, or nonresident operating privilege from the range 155
specified in division (A) (3) of section 4510.02 of the Revised 156
Code. 157

(4) Except as otherwise provided in this division, 158
vehicular assault committed in violation of division (A) (2) (c) 159
of this section is a misdemeanor of the second degree. Vehicular 160
assault committed in violation of division (A) (2) (c) of this 161
section is a misdemeanor of the first degree if, at the time of 162
the offense, the offender was driving under a suspension imposed 163
under Chapter 4510. or any other provision of the Revised Code 164
or if the offender previously has been convicted of or pleaded 165
guilty to a violation of this section or any traffic-related 166

homicide, manslaughter, or assault offense. 167

In addition to any other sanctions imposed, the court 168
shall impose upon the offender a class four suspension of the 169
offender's driver's license, commercial driver's license, 170
temporary instruction permit, probationary license, or 171
nonresident operating privilege from the range specified in 172
division (A) (4) of section 4510.02 of the Revised Code or, if 173
the offender previously has been convicted of or pleaded guilty 174
to a violation of this section, any traffic-related homicide, 175
manslaughter, or assault offense, or any traffic-related murder, 176
felonious assault, or attempted murder offense, a class three 177
suspension of the offender's driver's license, commercial 178
driver's license, temporary instruction permit, probationary 179
license, or nonresident operating privilege from the range 180
specified in division (A) (3) of section 4510.02 of the Revised 181
Code. 182

(D) (1) The court shall impose a mandatory prison term on 183
an offender who is convicted of or pleads guilty to a violation 184
of division (A) (1) of this section. 185

(2) The court shall impose a mandatory prison term on an 186
offender who is convicted of or pleads guilty to a violation of 187
division (A) (2) (a) or (b) of this section or a felony violation 188
of division (A) (3) of this section if either of the following 189
applies: 190

(a) The offender previously has been convicted of or 191
pleaded guilty to a violation of this section or section 2903.06 192
of the Revised Code. 193

(b) At the time of the offense, the offender was driving 194
under suspension under Chapter 4510. or any other provision of 195

the Revised Code. 196

(3) The court shall impose a mandatory jail term of at 197
least seven days on an offender who is convicted of or pleads 198
guilty to a misdemeanor violation of division (A) (2) (c) or (3) 199
of this section and may impose upon the offender a longer jail 200
term as authorized pursuant to section 2929.24 of the Revised 201
Code. 202

(E) Divisions (A) (2) (a) and (3) of this section do not 203
apply in a particular construction zone unless signs of the type 204
described in section 2903.081 of the Revised Code are erected in 205
that construction zone in accordance with the guidelines and 206
design specifications established by the director of 207
transportation under section 5501.27 of the Revised Code. The 208
failure to erect signs of the type described in section 2903.081 209
of the Revised Code in a particular construction zone in 210
accordance with those guidelines and design specifications does 211
not limit or affect the application of division (A) (1) or (2) (b) 212
of this section in that construction zone or the prosecution of 213
any person who violates either of those divisions in that 214
construction zone. 215

(F) As used in this section: 216

(1) "Mandatory prison term" and "mandatory jail term" have 217
the same meanings as in section 2929.01 of the Revised Code. 218

(2) "Traffic-related homicide, manslaughter, or assault 219
offense" and "traffic-related murder, felonious assault, or 220
attempted murder offense" have the same meanings as in section 221
2903.06 of the Revised Code. 222

(3) "Construction zone" has the same meaning as in section 223
5501.27 of the Revised Code. 224

(4) "Reckless operation offense" and "speeding offense" 225
have the same meanings as in section 2903.06 of the Revised 226
Code. 227

(G) For the purposes of this section, when a penalty or 228
suspension is enhanced because of a prior or current violation 229
of a specified law or a prior or current specified offense, the 230
reference to the violation of the specified law or the specified 231
offense includes any violation of any substantially equivalent 232
municipal ordinance, former law of this state, or current or 233
former law of another state or the United States. 234

Section 2. That existing section 2903.08 of the Revised 235
Code is hereby repealed. 236