

**As Reported by the House Criminal Justice Committee**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Sub. H. B. No. 278**

**Representatives Patton, Kelly**

**Cosponsors: Representatives Manning, Celebrezze, Rogers**

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**A BILL**

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

**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; 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 76

equivalent municipal ordinance within the previous ten years. 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 least seven days on an offender who is convicted of or pleads guilty to a misdemeanor violation of division (A) (2)(c) or (3) of this section and may impose upon the offender a longer jail term as authorized pursuant to section 2929.24 of the Revised Code.

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

(F) As used in this section:

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

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

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

(4) "Reckless operation offense" and "speeding offense"



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Code is hereby repealed.	236