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Sub. H. B. No. 403

Representative Cutrona

**Cosponsors: Representatives Hillyer, Mathews, Schmidt, Brennan, Carruthers,
Daniels, Dell'Aquila, Dobos, Jones, Miller, K., Mohamed, Robinson, Santucci**

Senator Manning

A BILL

To amend sections 3704.16, 4513.241, 4925.03, and 1
4925.04 and to enact section 4513.71 of the 2
Revised Code to create new causes of action in 3
relation to commercial motor vehicles towed 4
after an accident, to exempt motor vehicle 5
dealers from the prohibition against selling 6
vehicles that have been tampered with under 7
certain circumstances, to expand an exception to 8
existing window tinting prohibitions, and to 9
require transportation network companies to 10
conduct an annual background check on their 11
authorized drivers. 12

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

Section 1. That sections 3704.16, 4513.241, 4925.03, and 13
4925.04 be amended and section 4513.71 of the Revised Code be 14
enacted to read as follows: 15

Sec. 3704.16. (A) As used in sections 3704.16 to 3704.162 16
of the Revised Code: 17

(1) "Tamper with" means to remove permanently, bypass, 18
defeat, or render inoperative, in whole or part, any emission 19
control system that is installed on or in a motor vehicle. 20

(2) "Motor vehicle" has the same meaning as in section 21
4501.01 of the Revised Code. 22

(3) "Emission control system" means any system designated 23
by the United States environmental protection agency as an 24
emission control system under Title II of the "Clean Air Act 25
Amendments." "Emission control system" includes any device or 26
element of design of the system. 27

(4) "Clean Air Act Amendments" has the same meaning as in 28
section 3704.14 of the Revised Code. 29

(5) Notwithstanding section 3704.01 of the Revised Code, 30
"person" has the same meaning as in section 1.59 of the Revised 31
Code. 32

(B) No person shall do any of the following: 33

(1) Sell, offer for sale, possess for sale, advertise, 34
manufacture, install, or use any part or component intended for 35
use with or as part of any motor vehicle when the primary effect 36
is to bypass, defeat, or render inoperative, in whole or part, 37
the emission control system; 38

(2) Introduce a leaded fuel into a motor vehicle that is 39
designed, manufactured, or certified by the United States 40
environmental protection agency to use only unleaded fuels; 41

(3) Tamper with any emission control system installed on 42
or in a motor vehicle prior to its sale and delivery to the 43
ultimate purchaser; 44

(4) Violate any rule or order the director of 45

environmental protection adopts or issues under section 3704.161 46
of the Revised Code; 47

(5) Refuse to permit the director or ~~his~~ the director's 48
designee to inspect any motor vehicle or documents as provided 49
in division (A) of section 3704.161 of the Revised Code. 50

The sale, offering for sale, possession for sale, 51
advertisement, manufacture, installation, and use of a part or 52
component in violation of division (B) (1) of this section all 53
constitute separate offenses. 54

(C) No person shall knowingly do any of the following: 55

(1) Operate a motor vehicle that has been tampered with if 56
the motor vehicle or motor vehicle engine has been certified by 57
the United States environmental protection agency as meeting 58
federal or California emission control standards; 59

(2) Sell, lease, rent, or offer to sell, lease, or rent, 60
or transfer or offer to transfer title or a right to possession 61
of a motor vehicle that has been tampered with; 62

(3) Tamper with any emission control system installed on 63
or in a motor vehicle after sale, lease, or rental and delivery 64
of the vehicle to the ultimate purchaser, lessee, or renter. 65

The sale, lease, rental, and offer to sell, lease, or 66
rent, and other transfer or offer to transfer of title or a 67
right to possession of a motor vehicle in violation of division 68
(C) (2) of this section all constitute separate offenses. 69

(D) Division (C) (2) of this section does not apply to 70
~~either any~~ of the following: 71

(1) Any person who sells, leases, rents, or offers to 72
sell, lease, or rent, or transfers or offers to transfer title 73

or a right to possession of a motor vehicle that has been 74
tampered with if the person is acting as a motor vehicle auction 75
owner, a special auctioneer, or a salvage motor vehicle auction 76
and if the person holds a current and appropriate license to 77
engage in those activities issued under Chapter 4517., 4707., or 78
4738. of the Revised Code; 79

(2) The sale, lease, rental, or offer to sell, lease, or 80
rent, or transfer or offer to transfer title or right to 81
possession of a motor vehicle that has been tampered with if the 82
vehicle is titled with a salvage certificate of title issued 83
under section 4505.11 of the Revised Code; 84

(3) A motor vehicle dealer who sells or offers to sell, or 85
transfers or offers to transfer title to, a motor vehicle that 86
has been tampered with to another motor vehicle dealer through a 87
motor vehicle auction if all of the following occur: 88

(a) The dealer discloses to the auction that the vehicle 89
has been tampered with. 90

(b) The auction announces during, or as part of, the 91
vehicle auction process that the vehicle has been tampered with. 92

(c) The auction identifies the vehicle as having been 93
tampered with in any written description of the vehicle. 94

(d) The auction provides the buyer and seller of the 95
vehicle with a receipt or other written documentation after the 96
sale that identifies the vehicle as having been tampered with. 97

(E) Notwithstanding divisions (B) (1) and (3) and (C) (3) of 98
this section, it is not a violation of those divisions if either 99
of the following conditions is met: 100

(1) The action is taken for the purpose of repair or 101

replacement of the emission control system or is a necessary and 102
temporary procedure to repair or replace any other item on the 103
motor vehicle and the action results in the system's compliance 104
with the "Clean Air Act Amendments"; 105

(2) The action is for the purpose of converting a motor 106
vehicle to use a clean alternative fuel, as defined in Title II 107
of the "Clean Air Act Amendments," the motor vehicle complies 108
with the applicable standard adopted under Section 202 of that 109
act when operating on the fuel, an emission control system is 110
installed or replaced upon completion of the conversion, and the 111
action results in the system's compliance with that act when the 112
motor vehicle operates on the fuel for which it originally was 113
designed. 114

Sec. 4513.241. (A) The director of public safety, in 115
accordance with Chapter 119. of the Revised Code, shall adopt 116
rules governing the use of tinted glass, and the use of 117
transparent, nontransparent, translucent, and reflectorized 118
materials in or on motor vehicle windshields, side windows, 119
sidewings, and rear windows that prevent a person of normal 120
vision looking into the motor vehicle from seeing or identifying 121
persons or objects inside the motor vehicle. 122

(B) The rules adopted under this section may provide for 123
persons who meet either of the following qualifications: 124

(1) On November 11, 1994, or the effective date of any 125
rule adopted under this section, own a motor vehicle that does 126
not conform to the requirements of this section or of any rule 127
adopted under this section; 128

(2) Establish residency in this state and are required to 129
register a motor vehicle that does not conform to the 130

requirements of this section or of any rule adopted under this section. 131
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(C) No person shall operate, on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is registered in this state unless the motor vehicle conforms to the requirements of this section and of any applicable rule adopted under this section. 133
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(D) No person shall install in or on any motor vehicle, any glass or other material that fails to conform to the requirements of this section or of any rule adopted under this section. 139
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(E) (1) No used motor vehicle dealer or new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, shall sell any motor vehicle that fails to conform to the requirements of this section or of any rule adopted under this section. 143
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(2) No manufacturer, remanufacturer, or distributor, as defined in section 4517.01 of the Revised Code, shall provide to a motor vehicle dealer licensed under Chapter 4517. of the Revised Code or to any other person, a motor vehicle that fails to conform to the requirements of this section or of any rule adopted under this section. 147
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(F) No reflectorized materials shall be permitted upon or in any front windshield, side windows, sidewings, or rear window. 153
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(G) This section does not apply to the manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by federal motor vehicle safety standard number two hundred five. 156
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(H) With regard to any side window behind a driver's seat 160
or any rear window other than any window on an emergency door, 161
this section does not apply to any school bus used to transport 162
a child with disabilities pursuant to Chapter 3323. of the 163
Revised Code, whom it is impossible or impractical to transport 164
by regular school bus in the course of regular route 165
transportation provided by a school district. As used in this 166
division, "child with disabilities" has the same meaning as in 167
section 3323.01 of the Revised Code. 168

(I) This section does not apply to any school bus that is 169
to be sold and operated outside this state. 170

(J) (1) This section and the rules adopted under it do not 171
apply to a motor vehicle used by a law enforcement agency ~~under~~ 172
~~either of the following circumstances:~~ 173

~~(a) The vehicle does not have distinctive markings of a 174
law enforcement vehicle but is operated by or on behalf of the 175
law enforcement agency in an authorized investigation or other 176
activity requiring that the presence and identity of the vehicle 177
occupants be undisclosed. 178~~

~~(b) The vehicle primarily when the motor vehicle is used 179
by the law enforcement ~~canine unit for transporting a police~~ 180
~~agency for a purpose within the scope of the law enforcement~~ 181
agency's duties. 182~~

(2) As used in this division, "law enforcement agency" 183
means a police department, the office of a sheriff, the state 184
highway patrol, a county prosecuting attorney, or a federal, 185
state, or local governmental body that enforces criminal laws 186
and that has employees who have a statutory power of arrest. 187

(K) (1) Whoever violates division (C), (E) (2), or (F) of 188

this section is guilty of a minor misdemeanor.	189
(2) Whoever violates division (E) (1) of this section is	190
guilty of a minor misdemeanor if the dealer or the dealer's	191
agent knew of the nonconformity at the time of sale.	192
(3) (a) Whoever violates division (D) of this section is	193
guilty of a misdemeanor of the fourth degree, except that an	194
organization may not be convicted unless the act of installation	195
was authorized by the board of directors, trustees, partners, or	196
by a high managerial officer acting on behalf of the	197
organization, and installation was performed by an employee of	198
the organization acting within the scope of the person's	199
employment.	200
(b) In addition to any other penalty imposed under this	201
section, whoever violates division (D) of this section is liable	202
in a civil action to the owner of a motor vehicle on which was	203
installed the nonconforming glass or material for any damages	204
incurred by that person as a result of the installation of the	205
nonconforming glass or material, costs of maintaining the civil	206
action, and attorney fees.	207
(c) In addition to any other penalty imposed under this	208
section, if the offender previously has been convicted of or	209
pleaded guilty to a violation of division (D) of this section	210
and the offender is a motor vehicle repair operator registered	211
under Chapter 4775. of the Revised Code or a motor vehicle	212
dealer licensed under Chapter 4517. of the Revised Code, whoever	213
violates division (D) of this section is subject to a	214
registration or license suspension, as applicable, for a period	215
of not more than one hundred eighty days.	216
(L) (1) Every county court judge, mayor of a mayor's court,	217

and clerk of a court of record shall keep a full record of every 218
case in which a person is charged with any violation of this 219
section. If a person is convicted of or forfeits bail in 220
relation to a violation of division (D) of this section, the 221
county court judge, mayor of a mayor's court, or clerk, within 222
ten days after the conviction or bail forfeiture, shall prepare 223
and immediately forward to the motor vehicle repair board and 224
the motor vehicle dealers board, an abstract, certified by the 225
preparer to be true and correct, of the court record covering 226
the case in which the person was convicted or forfeited bail. 227

(2) The motor vehicle repair board and the motor vehicle 228
dealers board each shall keep and maintain all abstracts 229
received under this section. Within ten days after receipt of an 230
abstract, each board, respectively, shall determine whether the 231
person named in the abstract is registered or licensed with the 232
board and, if the person is so registered or licensed, shall 233
proceed in accordance with section 4775.09 or 4517.33 of the 234
Revised Code, as applicable, and determine whether the person's 235
registration or license is to be suspended for a period of not 236
more than one hundred eighty days. 237

Sec. 4513.71. (A) As used in this section: 238

(1) "Towing service" and "storage facility" have the same 239
meanings as in section 4513.70 of the Revised Code. 240

(2) "Motor vehicle owner" means any person that holds a 241
certificate of title to or is a lessee of a towed commercial 242
motor vehicle. "Motor vehicle owner" does not include a 243
lienholder or leasing company. 244

(B) (1) A motor vehicle owner may commence a civil action 245
against a towing service or storage facility for either of the 246

following reasons after the motor vehicle was removed, towed, or 247
stored pursuant to division (A) (2) of section 4513.66 of the 248
Revised Code: 249

(a) The recovery of the motor vehicle, cargo, or personal 250
property that was removed, towed, or stored; 251

(b) Objecting to the amount billed by the towing service 252
or storage facility for the removal, towing, or storage. 253

(2) The motor vehicle owner may commence the civil action 254
on behalf of that owner or on behalf of a third party for whom 255
the owner commercially transports the cargo that is the subject 256
of the civil action. 257

(C) A towing service or storage facility may commence a 258
civil action against a motor vehicle owner for payment of the 259
amount billed by the towing service or storage facility in 260
accordance with this section if all of the following apply: 261

(1) The motor vehicle, cargo, or personal property was 262
removed, towed, or stored pursuant to division (A) (2) of section 263
4513.66 of the Revised Code; 264

(2) The motor vehicle owner has not paid the amount billed 265
or commenced a civil action in accordance with division (B) of 266
this section within forty-five days after the motor vehicle 267
owner received the bill sent by the towing service or storage 268
facility; 269

(3) The towing service or storage facility is not seeking 270
title to the motor vehicle, if applicable, in accordance with 271
section 4505.104 of the Revised Code, until judgment is entered 272
in any civil action filed under this section. 273

(D) (1) The motor vehicle owner, towing service, or storage 274

facility may file the action in the municipal or county court 275
with territorial jurisdiction over the location from which the 276
motor vehicle, cargo, or personal property was removed, towed, 277
or stored. 278

(2) The motor vehicle owner, towing service, or storage 279
facility, as applicable, shall send a copy of the filing to any 280
lienholder, if known, of the subject motor vehicle, cargo, or 281
personal property. 282

(E) If the motor vehicle owner objects to the amount 283
billed by the towing service or storage facility, the motor 284
vehicle owner shall include in the owner's complaint, answer, or 285
objection to the action, as applicable, the amount of the bill 286
that is undisputed and the reasons the owner objects to the 287
remainder of the bill. The motor vehicle owner shall file a copy 288
of the bill and any evidence supporting the assertion that the 289
billed amount is unreasonable. The motor vehicle owner shall pay 290
the undisputed amount to the towing service or service facility 291
and post a bond equal to the disputed amount of the bill. 292

(F) Not later than two business days after receipt of 293
payment of the undisputed amount of the bill and service of the 294
motor vehicle owner's complaint or answer to the civil action, 295
as applicable, the towing service or storage facility shall 296
release the motor vehicle, cargo, or personal property that is 297
the subject of the complaint to the motor vehicle owner. 298

(G) When an action filed under this section involves a 299
dispute over the amount of the bill, the court shall make a 300
determination as to whether the amount charged by the towing 301
service or facility is unreasonable. If the court determines 302
that the amount is reasonable, the court shall order the motor 303
vehicle owner to pay the amount billed minus the undisputed 304

amount that the owner previously paid to the towing service or 305
storage facility. If the court determines that the amount 306
charged was unreasonable, the court shall determine a reasonable 307
amount and order the motor vehicle owner to pay that amount 308
minus the undisputed amount that the owner previously paid to 309
the towing service or storage facility. The court may also 310
require either party to pay or refund any additional amount and 311
may impose any monetary penalties that the court determines to 312
be appropriate. 313

(H) Any money owed by the motor vehicle owner shall be 314
paid from the bond posted by the owner. If any amount of the 315
bond remains after payment, the remainder shall be returned to 316
the motor vehicle owner. 317

(I) Nothing in this section creates, implies, or otherwise 318
grants insurance coverage for the amount billed by the towing 319
service or storage facility that is not within the owner's 320
motor-vehicle liability policy, proof of financial 321
responsibility, or other policy of insurance. 322

Sec. 4925.03. A transportation network company shall do 323
all of the following: 324

(A) Disclose its fare calculation method on its digital 325
network; 326

(B) Provide transportation network company riders or 327
potential riders with the applicable rates charged by the 328
transportation network company; 329

(C) Allow a transportation network company rider or 330
potential rider to request and receive an estimated fare before 331
the rider or potential rider receives transportation network 332
company services; 333

(D) Ensure that for each transportation network company 334
service request one of the following conditions is met: 335

(1) The transportation network company's digital network 336
provides a photograph of the transportation network company 337
driver and the license plate number of the motor vehicle that 338
will provide the transportation network company service before 339
the transportation network company rider enters the vehicle; 340

(2) The name of the transportation network company is 341
prominently displayed on the vehicle that will provide the 342
transportation network company service. 343

(E) Establish a process by which the transportation 344
network company may accept payments for transportation network 345
company services through the company's digital network; 346

(F) Within a reasonable period of time after the 347
completion of transportation network services, transmit an 348
electronic receipt to the transportation network company rider 349
that includes the origin and destination of the trip, the 350
distance of the trip, the total time during which transportation 351
network company services were provided, an itemization of the 352
total fare charged, and, if applicable, that the rider made a 353
cash payment to the driver; 354

(G) Designate an agent located within this state who is 355
authorized to receive service of process; 356

(H) Comply with the requirements established under 357
sections 3942.02 to 3942.04 of the Revised Code; 358

(I) Conduct an annual background check on each authorized 359
transportation network company driver and terminate the 360
authorization of any driver that does not meet the initial 361
authorization requirements of division (B) of section 4525.04 of 362

<u>the Revised Code;</u>	363
<u>(J)</u> Comply with any other requirements established by the public utilities commission.	364 365
Sec. 4925.04. (A) Prior to authorizing a person to act as a transportation network company driver, a transportation network company shall do all of the following:	366 367 368
(1) Require the person to submit an application to the transportation network company that includes at least all of the following:	369 370 371
(a) The person's address;	372
(b) The person's age;	373
(c) The person's driver's license number and information on the person's driving history;	374 375
(d) A copy of the certificate of motor vehicle registration for the vehicle the person will use to provide transportation network company services;	376 377 378
(e) Proof of automobile insurance.	379
(2) Conduct a background check on each applicant, including both of the following:	380 381
(a) A search of a multi-state/multi-jurisdiction criminal records database, or a similar nationwide criminal records database, and validation of any records through a primary source search;	382 383 384 385
(b) A search of the United States department of justice national sex offender public web site;	386 387
(3) Obtain and review a driving history report with regard to each applicant.	388 389

(B) A transportation network company shall not authorize a 390
person to act as a transportation network company driver if any 391
of the following apply to the person: 392

(1) The person does not possess a valid driver's license. 393

(2) The person does not possess a valid certification of 394
motor vehicle registration for the motor vehicle that the person 395
intends to use to provide transportation network company 396
services. 397

(3) The person does not possess automobile liability 398
insurance for the vehicle that the person intends to use to 399
provide transportation network company services that meets the 400
requirements of section 3942.02 of the Revised Code unless the 401
transportation network company provides such insurance on behalf 402
of the driver. 403

(4) The person has not attained the age of nineteen. 404

(5) Within the past three years, the person has been 405
convicted of, or pleaded guilty to, more than three violations 406
of section 4511.194, 4511.204, 4511.21, 4511.211, 4511.251, 407
4511.29, 4511.30, 4511.39, 4511.46, 4511.47, 4511.711, or 408
4511.75 of the Revised Code or an existing or former municipal 409
ordinance or law of this or any other state, or of the United 410
States, that is substantially equivalent to any offense listed 411
in division (B) (5) of this section. 412

(6) Within the past three years, the person has been 413
convicted of, or pleaded guilty to, any serious vehicle-related 414
offense, including a violation of division (B) of section 415
2921.331 of the Revised Code or a violation of section 4510.11, 416
4510.111, 4510.12, 4510.14, 4510.16, 4510.18, 4511.20, or 417
4511.201 of the Revised Code or an existing or former municipal 418

ordinance or law of this or any other state, or of the United States, that is substantially equivalent to any offense listed in division (B) (6) of this section. 419
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(7) Within the past seven years, the person has been convicted of, or pleaded guilty to, any of the following: 422
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(a) Operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of both, in violation of section 4511.19 of the Revised Code; 424
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(b) The commission of any felony offense while operating, or being a passenger in, a motor vehicle; 427
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(c) A theft or fraud offense in violation of section 2911.01 or 2911.02 of the Revised Code or any provision of Chapter 2913. of the Revised Code; 429
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(d) A property damage offense in violation of section 2909.02, 2909.03, 2909.05, 2909.06, 2909.07, 2909.09, 2909.10, or 2909.101 of the Revised Code; 432
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(e) A sex offense in violation of any provision of Chapter 2907. of the Revised Code; 435
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(f) An offense of violence as defined in section 2901.01 of the Revised Code; 437
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(g) An act of terrorism as defined in section 2909.21 of the Revised Code; 439
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(h) A violation of an existing or former municipal ordinance or law of this or any other state, or of the United States, that is substantially equivalent to any offense listed in division (B) (7) of this section. 441
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(8) A search of the United States department of justice 445

national sex offender public web site indicates that the person 446
is identified as a sex offender. 447

(C) A transportation network company shall terminate the 448
authorization of a person to act as a transportation network 449
company driver on behalf of the company if any of the conditions 450
specified in division (B) of this section apply to that person 451
according to that person's annual background check conducted in 452
accordance with section 4925.03 of the Revised Code. 453

Section 2. That existing sections 3704.16, 4513.241, 454
4925.03, and 4925.04 of the Revised Code are hereby repealed. 455