

AN ACT

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

Be it enacted by the General Assembly of the State of Ohio:

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

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

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

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

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

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

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

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

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

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

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

(4) Violate any rule or order the director of environmental protection adopts or issues under section 3704.161 of the Revised Code;

(5) Refuse to permit the director or ~~his~~ the director's designee to inspect any motor vehicle or

documents as provided in division (A) of section 3704.161 of the Revised Code.

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

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

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

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

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

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

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

(1) Any person who sells, leases, rents, or offers to sell, lease, or rent, or transfers or offers to transfer title or a right to possession of a motor vehicle that has been tampered with if the person is acting as a motor vehicle auction owner, a special auctioneer, or a salvage motor vehicle auction and if the person holds a current and appropriate license to engage in those activities issued under Chapter 4517., 4707., or 4738. of the Revised Code;

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

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

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

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

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

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

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

(1) The action is taken for the purpose of repair or replacement of the emission control system or is a necessary and temporary procedure to repair or replace any other item on the motor

vehicle and the action results in the system's compliance with the "Clean Air Act Amendments";

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

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

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

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

(2) Establish residency in this state and are required to register a motor vehicle that does not conform to the requirements of this section or of any rule adopted under this section.

(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.

(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.

(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.

(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.

(F) No reflectorized materials shall be permitted upon or in any front windshield, side windows, sidewings, or rear window.

(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.

(H) With regard to any side window behind a driver's seat or any rear window other than any

window on an emergency door, this section does not apply to any school bus used to transport a child with disabilities pursuant to Chapter 3323. of the Revised Code, whom it is impossible or impractical to transport by regular school bus in the course of regular route transportation provided by a school district. As used in this division, "child with disabilities" has the same meaning as in section 3323.01 of the Revised Code.

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

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

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

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

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

(K)(1) Whoever violates division (C), (E)(2), or (F) of this section is guilty of a minor misdemeanor.

(2) Whoever violates division (E)(1) of this section is guilty of a minor misdemeanor if the dealer or the dealer's agent knew of the nonconformity at the time of sale.

(3)(a) Whoever violates division (D) of this section is guilty of a misdemeanor of the fourth degree, except that an organization may not be convicted unless the act of installation was authorized by the board of directors, trustees, partners, or by a high managerial officer acting on behalf of the organization, and installation was performed by an employee of the organization acting within the scope of the person's employment.

(b) In addition to any other penalty imposed under this section, whoever violates division (D) of this section is liable in a civil action to the owner of a motor vehicle on which was installed the nonconforming glass or material for any damages incurred by that person as a result of the installation of the nonconforming glass or material, costs of maintaining the civil action, and attorney fees.

(c) In addition to any other penalty imposed under this section, if the offender previously has been convicted of or pleaded guilty to a violation of division (D) of this section and the offender is a motor vehicle repair operator registered under Chapter 4775. of the Revised Code or a motor vehicle dealer licensed under Chapter 4517. of the Revised Code, whoever violates division (D) of this section is subject to a registration or license suspension, as applicable, for a period of not more than

one hundred eighty days.

(L)(1) Every county court judge, mayor of a mayor's court, and clerk of a court of record shall keep a full record of every case in which a person is charged with any violation of this section. If a person is convicted of or forfeits bail in relation to a violation of division (D) of this section, the county court judge, mayor of a mayor's court, or clerk, within ten days after the conviction or bail forfeiture, shall prepare and immediately forward to the motor vehicle repair board and the motor vehicle dealers board, an abstract, certified by the preparer to be true and correct, of the court record covering the case in which the person was convicted or forfeited bail.

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

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

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

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

(B)(1) A motor vehicle owner may commence a civil action against a towing service or storage facility for either of the following reasons after the motor vehicle was removed, towed, or stored pursuant to division (A)(2) of section 4513.66 of the Revised Code:

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

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

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

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

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

(2) The motor vehicle owner has not paid the amount billed or commenced a civil action in accordance with division (B) of this section within forty-five days after the motor vehicle owner

received the bill sent by the towing service or storage facility:

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

(D)(1) The motor vehicle owner, towing service, or storage facility may file the action in the municipal or county court with territorial jurisdiction over the location from which the motor vehicle, cargo, or personal property was removed, towed, or stored.

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

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

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

(G) When an action filed under this section involves a dispute over the amount of the bill, the court shall make a determination as to whether the amount charged by the towing service or facility is unreasonable. If the court determines that the amount is reasonable, the court shall order the motor vehicle owner to pay the amount billed minus the undisputed amount that the owner previously paid to the towing service or storage facility. If the court determines that the amount charged was unreasonable, the court shall determine a reasonable amount and order the motor vehicle owner to pay that amount minus the undisputed amount that the owner previously paid to the towing service or storage facility. The court may also require either party to pay or refund any additional amount and may impose any monetary penalties that the court determines to be appropriate.

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

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

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

- (A) Disclose its fare calculation method on its digital network;
 - (B) Provide transportation network company riders or potential riders with the applicable rates charged by the transportation network company;
 - (C) Allow a transportation network company rider or potential rider to request and receive an estimated fare before the rider or potential rider receives transportation network company services;
 - (D) Ensure that for each transportation network company service request one of the following conditions is met:
 - (1) The transportation network company's digital network provides a photograph of the transportation network company driver and the license plate number of the motor vehicle that will provide the transportation network company service before the transportation network company rider enters the vehicle;
 - (2) The name of the transportation network company is prominently displayed on the vehicle that will provide the transportation network company service.
 - (E) Establish a process by which the transportation network company may accept payments for transportation network company services through the company's digital network;
 - (F) Within a reasonable period of time after the completion of transportation network services, transmit an electronic receipt to the transportation network company rider that includes the origin and destination of the trip, the distance of the trip, the total time during which transportation network company services were provided, an itemization of the total fare charged, and, if applicable, that the rider made a cash payment to the driver;
 - (G) Designate an agent located within this state who is authorized to receive service of process;
 - (H) Comply with the requirements established under sections 3942.02 to 3942.04 of the Revised Code;
 - (I) Conduct an annual background check on each authorized transportation network company driver and terminate the authorization of any driver that does not meet the initial authorization requirements of division (B) of section 4525.04 of the Revised Code;
 - (J) Comply with any other requirements established by the public utilities commission.
- 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:
- (1) Require the person to submit an application to the transportation network company that includes at least all of the following:
 - (a) The person's address;
 - (b) The person's age;
 - (c) The person's driver's license number and information on the person's driving history;
 - (d) A copy of the certificate of motor vehicle registration for the vehicle the person will use to provide transportation network company services;
 - (e) Proof of automobile insurance.

(2) Conduct a background check on each applicant, including both of the following:

(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;

(b) A search of the United States department of justice national sex offender public web site;

(3) Obtain and review a driving history report with regard to each applicant.

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

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

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

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

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

(5) Within the past three years, the person has been convicted of, or pleaded guilty to, more than three violations of section 4511.194, 4511.204, 4511.21, 4511.211, 4511.251, 4511.29, 4511.30, 4511.39, 4511.46, 4511.47, 4511.711, or 4511.75 of the Revised Code or 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)(5) of this section.

(6) Within the past three years, the person has been convicted of, or pleaded guilty to, any serious vehicle-related offense, including a violation of division (B) of section 2921.331 of the Revised Code or a violation of section 4510.11, 4510.111, 4510.12, 4510.14, 4510.16, 4510.18, 4511.20, or 4511.201 of the Revised Code or 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)(6) of this section.

(7) Within the past seven years, the person has been convicted of, or pleaded guilty to, any of the following:

(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;

(b) The commission of any felony offense while operating, or being a passenger in, a motor vehicle;

(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;

(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;

(e) A sex offense in violation of any provision of Chapter 2907. of the Revised Code;

(f) An offense of violence as defined in section 2901.01 of the Revised Code;

(g) An act of terrorism as defined in section 2909.21 of the Revised Code;

(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.

(8) A search of the United States department of justice national sex offender public web site indicates that the person is identified as a sex offender.

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

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

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor:

Sub. H. B. No. 403

135th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____