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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Sigrist and Odioso

Larry Gunter, Jr., Research Analyst

SUMMARY

- Creates a new vehicular assault offense by prohibiting causing serious physical harm to another person or another's unborn as the proximate result of operating certain vehicles negligently.
- Specifies that vehicular assault that is the proximate result of negligence is a second degree misdemeanor generally, but a first degree misdemeanor under specified circumstances.
- Increases the base penalty for failing to yield the right-of-way to a pedestrian in the crosswalk from a minor misdemeanor to a fourth degree misdemeanor, and accordingly, increases the penalties when the offender has prior predicate motor vehicle or traffic offenses within the prior year.
- Clarifies the law regarding pedestrian right-of-way when the pedestrian uses a crosswalk.

DETAILED ANALYSIS

Vehicular assault

Background

Under current law, a person is prohibited from causing the *death* of another person or another's unborn as the proximate result of operating certain vehicles negligently.¹ There is not, however, a corresponding prohibition against causing *serious physical harm* to another person

¹ R.C. 2903.06(A)(3)(a), not in the bill. The types of vehicles are a motor vehicle, motorcycle, utility vehicle, mini-truck, snowmobile, locomotive, watercraft, or aircraft.

or another's unborn as the proximate result of that same vehicular negligence. The bill creates that prohibition and specifies the penalties for the new vehicular assault offense.²

A comparison of vehicular homicide and assault penalties

As mentioned above, the bill creates a parallel provision in the vehicular assault law to an existing provision in the vehicular homicide law. The following table compares the penalties in current law for vehicular homicide and vehicular assault.

Comparison of degree of offense under current law		
Proximate cause	Vehicular homicide³	Vehicular assault⁴
Committing an OVI offense	2 nd degree felony Enhanced: 1 st degree felony	3 rd degree felony Enhanced: 2 nd degree felony
Recklessly	3 rd degree felony Enhanced: 2 nd degree felony	4 th degree felony Enhanced: 3 rd degree felony
Reckless operation offense in a construction zone	3 rd degree felony Enhanced: 2 nd degree felony	4 th degree felony Enhanced: 3 rd degree felony
Negligently	1 st degree misdemeanor Enhanced: 4 th degree felony	No provision in current law
Speeding in a construction zone	1 st degree misdemeanor Enhanced: 4 th degree felony	1 st degree misdemeanor Enhanced: 4 th degree felony
Violation of a traffic offense that is otherwise a minor misdemeanor	2 nd degree misdemeanor Enhanced: 1 st degree misdemeanor	No provision in current law

The bill addresses one of the two instances above where there is not a parallel provision in the vehicular assault law to the vehicular homicide law.

Negligently

The bill makes causing serious physical harm to another person or another's unborn as a result of negligently operating an applicable vehicle a second degree misdemeanor, generally. If at the time of the offense, the offender was driving under a suspended driver's license or

² R.C. 2903.08(A)(3)(a).

³ R.C. 2903.06(B), (C), and (D), not in the bill.

⁴ R.C. 2903.08(B) and (C).

previously has been convicted of or pleaded guilty to a vehicular assault offense or any traffic-related homicide, manslaughter, or assault offense, the offense is enhanced to a first degree misdemeanor.⁵

The penalty implications of the bill's new offense are listed in the table below.

Penalties for vehicular assault proximately caused by negligence ⁶		
	Base offense	Enhanced offense
Degree of offense	2 nd degree misdemeanor	1 st degree misdemeanor
Financial sanctions	Up to \$750	Up to \$1,000
Confinement ⁷	Jail term up to 90 days; mandatory term of at least 7 days	Jail term up to 180 days; mandatory term of at least 7 days
Driver's license suspension	Class 5 suspension (6 months to 3 years)	Class 4 suspension (1 to 5 years)

Serious physical harm

Under current law, unchanged by the bill, serious physical harm, for purposes of the criminal law, means any of the following:

1. Any mental illness or condition that would normally require hospitalization or prolonged psychiatric treatment;
2. Any physical harm that carries a substantial risk of death;
3. Any physical harm that involves some permanent incapacity (partial or total) or that involves some temporary, but substantial, incapacity;
4. Any physical harm that involves some permanent disfigurement or that involves some temporary, but serious, disfigurement; or
5. Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.⁸

⁵ R.C. 2903.08(A)(3)(a); conforming change in R.C. 2903.081.

⁶ R.C. 2929.14, 2929.18, 2929.24, 2929.28, and 4510.02, not in the bill.

⁷ R.C. 2903.08(D)(3), specifies the mandatory seven-day jail term.

⁸ R.C. 2901.01(A)(5), not in the bill.

Pedestrian right-of-way

Background

The bill also increases the penalties for the existing offense of failing to yield the right-of-way to a pedestrian who is legally crossing the roadway in a crosswalk. Under current law, a driver must yield the right-of-way to a pedestrian who is lawfully within a crosswalk based on highway and pedestrian traffic signal indications.⁹ Additionally, if those traffic signal indications are not present, are not in operation, or are not clearly assigning the right-of-way, a driver must still yield to a pedestrian in a crosswalk by slowing down or stopping, as necessary, if the pedestrian is on the half of the roadway on which the vehicle is traveling or is approaching so closely as to be in danger. Other drivers are also prohibited from overtaking and passing a vehicle that is stopped while waiting for a pedestrian to cross.

Failure to yield the right-of-way, when so required, under current law is generally a minor misdemeanor, with rising penalties if the driver is guilty of other prior traffic offenses within the year or commits the offense while distracted.¹⁰

Clarification of requirement

The bill retains the requirement that a driver yield the right-of-way to a pedestrian lawfully in the crosswalk, but removes any contingencies related to the presence or effective operation of highway traffic signals. Thus, a driver must *always* yield the right-of-way to a pedestrian *lawfully* in a crosswalk, regardless of the presence of highway traffic signals. The bill also requires a driver to come to a complete stop every time, instead of only as necessary, as under current law.¹¹

Penalty increase

The bill increases the base penalties for failure to yield the right-of-way, as described above, from a minor misdemeanor to a fourth degree misdemeanor for a first offense. The penalties for a minor misdemeanor include up to \$150 in fines and no jail term, compared to the penalties for a fourth degree misdemeanor that include up to \$250 in fines and a jail term of up to 30 days.¹² Accordingly, the bill also increases the penalties if the driver is guilty of other prior traffic offenses from within the year (i.e., from a fourth degree to a third degree misdemeanor for a second offense within one year and from a third degree to a second degree misdemeanor for a third or subsequent offense within one year).¹³

⁹ R.C. 4511.14; R.C. 4511.13, not in the bill.

¹⁰ R.C. 4511.46.

¹¹ R.C. 4511.46(A).

¹² R.C. 2929.24 and 2929.28, not in the bill.

¹³ R.C. 4511.46(E)(1).

HISTORY

Action	Date
Introduced	02-24-26
