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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 74
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Oelslager

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CORRECTED VERSION*

DEPARTMENT OF PUBLIC SAFETY

Distracted driving and electronic devices

Using electronic devices while driving

- Broadens the existing texting-while-driving prohibition to more generally prohibit using an electronic wireless communications device (EWCD) while driving.
- Modifies certain current exemptions and creates additional exemptions to the new EWCD-while-driving prohibition.
- Changes the existing minor misdemeanor penalty for texting-while-driving to an unclassified misdemeanor for the new EWCD-while-driving prohibition with a \$150 fine, and establishes increasing tiered penalties for additional violations within a three-year period.
- Makes the EWCD-while-driving prohibition a primary offense (rather than a secondary offense, as in current law).

Distracted driving

- Aligns the scope of the distracted driving law with the new EWCD-while-driving prohibition so that violating EWCD-while-driving constitutes distracted driving (driving distracted while committing a moving violation may result in an additional \$100 fine).

* Includes provisions relating to the Catastrophic Snow Program and closure of rest areas.

- Adds (1) failure to control and (2) passing a stopped school bus to the list of moving violations to which an additional distracted driving penalty applies.

Vehicular homicide, assault, and harm

- Creates a new aggravated vehicular homicide offense: prohibits a person from causing the death of another as the proximate result of an EWCD-while-driving offense or a distracted driving offense; imposes a **second degree felony** and a Class 1 driver's license suspension (life).
- Creates a new aggravated vehicular assault offense: prohibits a person from causing serious physical harm to another as the proximate result of an EWCD-while-driving offense or a distracted driving offense; imposes a **third degree felony** and a Class 3 driver's license suspension (2-10 years).
- Increases the penalty for the two new offenses if certain penalty enhancements apply.
- Creates a new vehicular harm offense: prohibits a person from causing physical harm to another, or serious physical harm to property, as the proximate result of an EWCD-while-driving offense or a distracted driving offense; imposes a **first degree misdemeanor**, a Class 5 license suspension (6 months-3 years), and a \$500-\$1,000 fine.

Other provisions

- Imposes additional points on a person's driver's license when a court determines that the person has committed certain offenses while distracted.
- Requires driver's education instruction to include education on the dangers of driving a vehicle while distracted generally (the current required curriculum addresses only texting-while-driving).
- Requires the Department of Transportation (ODOT) to erect signs regarding the EWCD-while-driving prohibition where an interstate or United States route enters Ohio and where a road, originating from a commercial service airport, exits the airport's property.
- Makes corrective changes in the EWCD-while-driving and distracted driving laws.

Enforcement

- Delays the effective date of all of the bill's provisions – EWCD-while-driving, distracted driving, aggravated vehicular homicide, vehicular assault, vehicular harm, the imposition of points on a person's driver's license, driver's education, signage, and corrective changes – by an additional 180 days after the date the bill would otherwise become effective (which is 90 days after enactment).
- Regarding the EWCD-while-driving prohibition specifically, during the 180-day interim period, authorizes a law enforcement officer to stop a driver and issue a warning that includes information about the prohibition.
- Continues enforcement of the existing texting-while-driving prohibition during the interim period.

Pedestrian right of way

- Requires the driver of a vehicle to stop and yield, rather than simply yield as in current law, the right-of-way to a pedestrian in a crosswalk when there is no traffic control signal.
- Requires the driver of a vehicle to stop and yield the right-of-way to a pedestrian waiting at the curb to enter a crosswalk on the half of the road on which the vehicle is traveling when there is no traffic control signal.

Seizure of license plates after OVI offense

- Eliminates the requirement that an arresting law enforcement officer remove the license plates on a vehicle seized as part of an arrest for an OVI offense and, instead, requires the license plates to remain on the vehicle unless ordered by a court.

BMV registration fee increase

- Increases the annual Bureau of Motor Vehicles (BMV) additional registration fee as follows:
 - From \$11 to \$21 for passenger vehicles, noncommercial vehicles, and nonapportioned commercial buses, trailers, and semitrailers;
 - From \$30 to \$40 for nonapportioned commercial cars.
- Makes the fee increases specified above effective October 1, 2021.
- Increases the annual registration tax collected for apportioned commercial vehicles (subject to rates under the International Registration Plan) by \$10.

Temporary motor vehicle license registration

- Changes the name of the temporary license placard or windshield sticker to temporary motor vehicle license registration.
- Requires, rather than authorizes, Ohio motorized bicycle dealers and licensed motor vehicle dealers to issue temporary motor vehicle license registrations by electronic means via computer equipment the dealer must buy and maintain unless otherwise authorized by the Registrar of Motor Vehicles (Registrar).
- Eliminates both of the following:
 - The requirement that a dealer notify the Registrar within 48 hours of the issuance of a temporary license placard by electronic or other Registrar-approved means; and
 - The \$5 service fee that applies when a dealer notifies the Registrar of the issuance of a placard by nonelectronic means.
- Authorizes, rather than requires, the Registrar to adopt rules specifying procedures for reporting information from temporary license registration applications and for providing that information to law enforcement.

Production of validation and county stickers

- Alters the authority of the Registrar to adopt rules allowing the Registrar or deputy registrars, in lieu of Ohio Penal Industries, to print or produce validation and county stickers by doing both of the following:
 - Requiring the rules to expressly permit the Registrar and deputy registrars to provide for the printing or production of the stickers; and
 - Removing the requirement that the stickers be produced in house.

Issuance of registration certificates and stickers

- Expands the methods by which the Registrar may deliver a certificate of registration for a motor vehicle to include electronic delivery.
- Removes the requirement that a validation sticker be issued for and displayed on a nonapportioned commercial tractor or any apportioned motor vehicle.
- Allows the Registrar to issue a county identification sticker that identifies the county of registration either by name or number, rather than only by name.

Specialty license plates

- Defines specific license plates created through legislation, and that include a combination of words, markings, logos, or other artwork in addition to the items generally required by law, as “specialty license plates.”
- Specifies that the fees for the renewal of a specialty license plate must be the same as the fees for initial issuance.
- Eliminates a prior intent statement that all applicants for a specialty license plate must pay the standard motor vehicle registration taxes and fees.
- Eliminates the minimum annual sales requirement that must be met for continued issuance of a specialty license plate.
- Eliminates the annual report that certain school districts and schools are required to submit to the Department of Mental Health and Addiction Services and to the Registrar regarding the use of the contributions derived from that district or school’s specialty license plate.
- Makes technical changes to the specialty license plate law.

Certificate of title fees

- Increases, from \$15 to \$17, the fee for motor vehicle and specialty vehicle certificates of title and directs the proceeds from the increase to the Security, Investigations, and Policing Fund.

Electronic certificates of title

- Specifies that “certificate of title” and “title” include both physical and electronic copies of a motor vehicle certificate of title.
- Authorizes the use of an electronic certificate of title for a casual sale of a motor vehicle.
- Requires the Registrar to develop an assignment form that may be used instead of a physical certificate of title for certain casual sales of a motor vehicle and in certain sales of a motor vehicle to a salvage dealer.
- Authorizes the Registrar and a deputy registrar to confirm proof of ownership electronically when a person first registers a motor vehicle.

Online renewal of driver’s license and identification card

- Authorizes the Registrar to allow online renewal of a driver’s license and state identification card (ID) for an eligible applicant.
- Specifies eligibility requirements for an online renewal of an applicant’s driver’s license or ID (e.g., the current license or ID was processed in person and the applicant is applying for a four-year license).
- Specifies that the Registrar may require applicants to submit digital copies of any required identification or supporting documents as required by state or federal law.
- Requires all applicants to comply with all other related driver’s license and ID laws (e.g., pay any necessary fees).
- Requires applications for other forms of identification issued by the BMV to still be submitted in person (e.g., a commercial driver’s license or nonrenewable license).
- Makes conforming changes in the driver’s license and ID laws.

Sharing digital driver’s license photos

- Authorizes the Department of Public Safety (DPS) to release digitalized photographic records to the American Association of Motor Vehicle Administrators.
- Specifies that the purpose of this authorization is to allow other state departments of motor vehicles that participate in certain association programs to use the records for identity verification purposes.

Single credential

- Prohibits a person from receiving a temporary instruction permit or identification card until a person surrenders any permit or card issued by another jurisdiction.
- Prohibits a person from possessing more than one valid temporary instruction permit or identification card.

- Requires a person who becomes an Ohio resident to surrender any temporary instruction permit or identification card issued by another state to the Registrar or a deputy registrar within 30 days of becoming a resident.
- Prohibits a new Ohio resident who fails to obtain a temporary instruction permit (or driver's license) within the 30-day period from operating a motor vehicle.
- Applies the existing criminal penalty to any violation of the prohibitions (a misdemeanor of the first degree).
- Requires the Registrar to report both of the following to an issuing state other than Ohio:
 - The cancellation of any temporary instruction permit or identification card; and
 - Information that a temporary instruction permit or identification card has now been issued to the person in Ohio.
- Requires the Registrar or a deputy registrar to destroy cancelled permits and cards if not returned to the other state's issuing authority.
- Specifies that a Registrar or deputy registrar may only issue an identification card or temporary identification card to a person who does not hold an identification card from another jurisdiction.

DEPARTMENT OF TRANSPORTATION

Navigable airspace

- Updates state law to align with current federal law and Federal Aviation Administration (FAA) regulations regarding navigable airspace and obstructions to air navigation.
- Modifies the process for filing an application for a permit or an amended permit to construct or alter a structure or object of natural growth that is reasonably expected to penetrate the navigable airspace.
- Prohibits any person from installing, erecting, constructing, or establishing a structure or object of natural growth that can reasonably be expected to penetrate the navigable airspace without first obtaining a permit from ODOT.
- Removes certain exceptions to the requirement to obtaining a permit.
- Requires any person with an object of natural growth that has grown to a height that penetrates navigable airspace to trim or remove the object themselves or allow an airport authority, political subdivision, public body, or the agent or designee thereof to enter the property to do so.
- Clarifies how changes to the laws governing structures and objects of natural growth that penetrate the navigable airspace will apply to structures and objects of natural growth in existence prior to those changes.

- Authorizes a court to allow ODOT, an airport authority, a political subdivision, or an agent thereof to enter property on which an obstruction to navigable airspace is located and take whatever action is necessary to correct the obstruction, at the owner's expense.
- Specifies that ODOT and the Office of Aviation are not liable for damages caused by a structure or object of natural growth that obstructs the navigable airspace if a permit was not issued for the structure or object, the permit was issued by the Power Siting Board, or the structure or object is not in compliance with a permit.
- Requires an airport zoning commission, rather than the Office of Aviation, to develop an airport approach plan for any airport within its jurisdiction.
- Updates outdated terminology and makes conforming and other changes in the laws governing aviation and airport zoning.

Bridge inspections

- Specifies that bridges must be inspected at least once every two years according to a schedule set by the Director of ODOT, rather than at least once every year as in current law.

Landslide mitigation and competitive bidding

- Specifies that the Director is not required to follow competitive bidding procedures to install a drilled shaft retaining wall or driven pile retaining wall for landslide mitigation, provided certain conditions concerning the size of the retaining wall project apply.

Proceeding by force account

- Clarifies that the Director may proceed without competitive bidding by force account for a highway maintenance project when the estimated cost of the completed project does not exceed \$30,000 per lane-mile (rather than \$30,000 per centerline mile as in current law).

Load limits on highways and bridges

- Removes the general vehicle weight exemption for a vehicle that runs on stationary rails or tracks.
- Narrows the vehicle weight exemption that applies to all fire department vehicles (e.g., a fire engine) to certain vehicles under specified conditions.

Outdoor advertising devices

- Limits application of the Outdoor Advertising Law to any type of outdoor sign or billboard to which both of the following apply:
 - It is owned or operated by a person or entity that earns compensation for the placement of a message on it; and

- It is visible from the main traveled way of any highway on the interstate system or primary system in this state.
- Specifies that compensation is the exchange of anything of value including money, securities, real property interests, goods, services, a promise of future payment, or forbearance of a debt.
- Eliminates all restrictions regarding the placement of noncompensated signs within the vicinity of a highway on the interstate system or primary system.

Scenic byways

- Expands the authority of the Director to designate a scenic byway to include any portion of a state, county, municipal, or township road or highway.

Highway maintenance and snow removal

- States that ODOT has the responsibility to maintain all interstate highways in Ohio.
- Permits the Director to enter into an agreement with a political subdivision to allow it to remove snow and ice from and to maintain, repair, improve, or provide lighting on interstate highways located within the political subdivision or to reimburse the political subdivision for such improvements.
- Continues the Catastrophic Snowfall Program to provide monetary aid for snow removal costs for municipal corporations, counties, and townships that receive 18 or more inches of snow in a 24-hour period.
- For the next two fiscal years, permits ODOT to close a rest area only if the parking lot remains available for commercial motor vehicles.

Indefinite delivery indefinite quantity (IDIQ) contracts

- Authorizes the Director to enter in indefinite delivery indefinite quality (IDIQ) contracts for not more than two projects in fiscal years 2022 and 2023.
- For purposes of IDIQ contracts, requires the Director to prepare bidding documents, establish contract forms, determine contract terms and conditions, develop and implement a work order process, and take any other action necessary to fulfill the Director's duties and obligations related to IDIQ contracts.

TAXATION

Taxpayer information to verify grant or loan eligibility

- Allows the Department of Taxation to disclose to the Ohio Rail Development Commission confidential taxpayer information for the sole purpose of verifying eligibility for grants or loans administered by the Commission.

Transit authority membership and taxation

- Temporarily reauthorizes a special procedure to allow certain subdivisions to join, with voter approval, a regional transit authority (RTA) that levies property tax and satisfies certain population criteria.
- Authorizes the ballot question to include a proposal to repeal all RTA property taxes and to instead levy an RTA sales and use tax.

Motor fuel tax allowances and refunds

- Continues the 1% fuel dealer and 0.5% retailer shrinkage allowances in effect biennially since 2008, superseding the 3% and 1% allowances in permanent codified law.

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DEPARTMENT OF PUBLIC SAFETY

Distracted Driving

(R.C. 2743.51, 2903.06, 2903.07, 2903.08, 2929.41, 3321.141, 4508.02, 4510.036, 4511.043, 4511.122, 4511.181, 4511.202, 4511.204, 4511.75, and 4511.991; Sections 745.10 and 812.30)

Using an electronic wireless communications device while driving

(R.C. 4511.204 and 4511.043)

The bill expands the current texting-while-driving prohibition to generally prohibit any use of an electronic wireless communications device while driving. To accomplish this, the bill alters the relevant definitions, the language of the prohibition, and the related exemptions and penalties. Additionally, the bill removes the word “handheld” from the phrase “handheld electronic wireless communications device” throughout the statute – as a result, the bill prohibits the use of **all** electronic wireless communications devices (EWCD) generally while driving, not solely **handheld** EWCDs, as in current law.

Definitions

The bill alters the definitions of “electronic wireless communications device” and “voice-operated and hands-free”; the changes are provided in the table below.

Topic	Current law	Under the bill
Electronic wireless communications device (handheld EWCD under current law)	<ul style="list-style-type: none"> ▪ A wireless telephone; ▪ A text-messaging device; ▪ A personal digital assistant; ▪ A computer, including a laptop computer and a computer tablet; or ▪ Any other substantially similar wireless device that is designed or used to communicate text (R.C. 4511.204(G)). 	Same, but also includes any device capable of displaying a video, movie, broadcast television image, or visual image, and any other device that is designed or used to initiate or receive communication, or exchange information or data (R.C. 4511.204(A)).
Voice-operated or hands-free device	A device that allows the user to vocally compose or send, or listen to a text-based communication without the use of either hand except to	A feature or function that allows a person to use an EWCD without the use of either hand, except to activate, deactivate, or initiate the feature or

Topic	Current law	Under the bill
	activate or deactivate a feature or function (<i>R.C. 4511.204(G)</i>).	function with a single touch or single swipe (term is referred to as a “voice-operated or hands-free feature or function”) (<i>R.C. 4511.204(A)</i>).

Prohibition

As indicated above, the bill expands the current prohibition against texting while driving. Currently, no person may drive a motor vehicle on any street open to the public for vehicular traffic **while using a handheld EWCD to write, send, or read a text-based communication**. The bill instead prohibits a person from operating a motor vehicle on any street open to the public for vehicular traffic while doing any of the following:

1. Using any part of the person’s body to operate, hold, or support an EWCD to do any of the following:
 - a. Write, send, or read any communication, including a text message, email, social media interaction, or instant message;
 - b. Engage in any form of electronic data retrieval or electronic data communication;
 - c. Manually enter letters, numbers, or symbols into any website, search engine, or application, including a calendar or navigation service site; or
 - d. Make any communication, including a phone call, video conference, voice message, or one-way voice communication.
2. Using an EWCD to do any of the following:
 - a. View a video, movie, broadcast television image, or visual image; or
 - b. Record, post, send, or broadcast a video or image.

Exemptions

For purposes of the new EWCD-while-driving prohibition, the bill alters the exemptions that currently apply to the texting-while-driving prohibition, as explained below.

Topic	Current law	Under the bill
Navigation	A person using a device for navigation purposes (<i>R.C. 4511.204(B)(7)</i>).	A person using an EWCD in conjunction with a voice-operated or hands-free device feature or function of the vehicle for purposes of navigation, watching data related to navigation, or watching a static background image that supports a mapping service or similar application, provided that both of the following apply: <ul style="list-style-type: none"> ▪ The person does not manually enter letters, numbers, or symbols into

Topic	Current law	Under the bill
		<p>the device during the use; and</p> <ul style="list-style-type: none"> ▪ The person is not holding or supporting the device with any part of the person's body (<i>R.C. 4511.204(C)(6)</i>).
Voice-operated or hands-free	A person using a handheld EWCD in conjunction with a voice-operated or hands-free device feature or function of the vehicle (<i>R.C. 4511.204(B)(10)</i>).	<p>A person using an EWCD in conjunction with a voice-operated or hands-free feature or function of the vehicle to make or receive a communication or use an application, provided that both of the following apply:</p> <ul style="list-style-type: none"> ▪ The person does not manually enter letters, numbers, or symbols into the device during the use; and ▪ The person is not holding or supporting the device with any part of the person's body (<i>R.C. 4511.204(C)(8)</i>).
Permanently installed component	A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle (<i>R.C. 4511.204(B)(5)</i>).	A person using a component that is permanently installed in the motor vehicle, regardless of whether the component was factory-installed or installed after manufacture (<i>R.C. 4511.204(C)(7)</i>).
Speaker phone	No provision.	A person using the speaker phone function of the EWCD, provided that the person is not holding or supporting the device with any part of the person's body (<i>R.C. 4511.204(C)(9)</i>).
A single touch or swipe	A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device (<i>R.C. 4511.204(B)(8)</i>).	<p>A person using a feature or function of the EWCD with a single touch or single swipe, provided that both of the following apply:</p> <ul style="list-style-type: none"> ▪ The person does not manually enter letters, numbers, or symbols into the device during the use; and ▪ The person is not holding or supporting the device with any part of the person's body (<i>R.C. 4511.204(C)(10)</i>).

Topic	Current law	Under the bill
Emergency purposes	A person using a handheld EWCD to write, send, or read a text-based message for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity (<i>R.C. 4511.204(B)(1)</i>).	A person using an EWCD to make contact, for emergency purposes, with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity (<i>R.C. 4511.204(C)(1)</i>).
Operator of a public safety vehicle	A person driving a public safety vehicle who uses a handheld EWCD to write, send, or read a text-based message in the course of the person's duties (<i>R.C. 4511.204(B)(2)</i>).	A person operating a public safety vehicle while using an EWCD in the course of the person's official duties (<i>R.C. 4511.204(C)(2)</i>).
Stationary position outside a lane of travel	A person using a handheld EWCD to write, send, or read a text-based message whose motor vehicle is in a stationary position and outside a lane of travel (<i>R.C. 4511.204(B)(3)</i>).	A person using an EWCD whose motor vehicle is in a stationary position outside a lane of travel (<i>R.C. 4511.204(C)(3)</i>).
Holding a phone to make or receive a phone call	A person reading, selecting, or entering a name or telephone number in a handheld EWCD for the purpose of making or receiving a telephone call (<i>R.C. 4511.204(B)(4)</i>).	No provision.
Radio waves	A person receiving wireless messages via radio waves (<i>R.C. 4511.204(B)(6)</i>).	No provision.
Commercial truck	A person operating a commercial truck while using a mobile data terminal that transmits and receives data (<i>R.C. 4511.204(B)(9)</i>).	Same (<i>R.C. 4511.204(C)(5)</i>).
Utility vehicles	No provision.	A person operating a utility service vehicle or a vehicle for or on behalf of a utility, if the person is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals (<i>R.C. 4511.204(C)(4)</i>).

Penalties

The bill applies different penalties to the new EWCD-while-driving prohibition. Under current law, texting while driving is a minor misdemeanor, punishable by a fine of up to \$150.¹ The bill changes the penalty to an unclassified misdemeanor with a \$150 fine and establishes the following tiered penalties:

- If, within three years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of the prohibition or a substantially equivalent municipal ordinance, the fine is at least \$250.
- If, within three years of the violation, the offender has been convicted of or pleaded guilty to two or more prior violations of the prohibition or a substantially equivalent municipal ordinance, the fine is at least \$500; and the court may impose a Class 7 suspension of the person's driver's license (not more than one year).

A court may impose any other penalties for a misdemeanor, but may not impose a jail term, community residential sanction, or any other fines or suspensions.

The bill also makes the new prohibition a primary offense. A primary offense means that a law enforcement officer may issue a ticket for the offense solely for a violation of the offense. When an offense is secondary, as the EWCD-while-driving prohibition is in current law, the law enforcement officer may only pull over a driver if the driver commits another primary offense. Thus, under the bill, a law enforcement officer may stop a motorist solely for violating the new EWCD prohibition.

Distracted driving penalty

(R.C. 4511.202, 4511.75, and 4511.991)

The bill changes what constitutes "distracted" in the distracted driving law and adds two offenses to the list of specified offenses to which an additional distracted driving penalty applies. Currently, if a person commits a moving violation (for example, speeding) while distracted, the person is subject to a \$100 fine in addition to the fine for the underlying violation.² The term "distracted" is defined in two parts:

1. Using an EWCD, as defined in the texting-while-driving law, while driving (with certain exceptions); and
2. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the operator's ability to safely drive.

¹ R.C. 2929.28, not in the bill.

² If a person successfully completes a distracted driving safety course established by DPS and submits proof of successful completion to the court, the person is not required to pay the \$100 additional fine. R.C. 4511.991(B)(1).

The bill alters (1) to specify that using an EWCD in violation of the bill constitutes distracted driving. The bill retains (2), above. Otherwise put, the bill aligns the scope of (1) with the new EWCD-while-driving prohibition. As a result, a person who violates the new EWCD-while-driving prohibition and commits a specified moving violation has committed distracted driving and would be penalized for the moving violation, using an EWCD while driving, and be subject to the \$100 fine for driving distracted.

Next, the bill adds two offenses to the list of underlying moving violations to which the additional distracted driving penalty applies: (1) failure to control, and (2) passing a stopped school bus (that is loading or unloading passengers).

Offenses related to distracted driving and use of an EWCD

(R.C. 2743.51, 2903.06, 2903.07, 2903.08, 2929.41, and 4511.181)

The bill establishes three new criminal prohibitions related to distracted driving and using an EWCD-while-driving. First, the bill establishes a new aggravated vehicular homicide offense and vehicular assault offense, which apply when a person causes the death of or serious physical harm to a person while driving when distracted or while unlawfully using an EWCD. Second, the bill creates the offense of vehicular harm, which applies when a person causes harm to a person or serious physical harm to property while driving when distracted or while unlawfully using an EWCD.

Aggravated vehicular homicide

The bill creates a new aggravated vehicular homicide offense: it prohibits a person from causing the death of another (or another's unborn) as the proximate result of violating either the EWCD-while-driving prohibition or the distracted driving law. The bill applies the current OVI-related (operating a vehicle while impaired) aggravated vehicular homicide penalties to a person who is convicted of or pleads guilty to this offense: a **second degree felony** and a **Class 1 driver's license suspension** (life).

Although there are several circumstances under current law that, if applicable, would enhance the penalty imposed for an OVI-related vehicular homicide, only the following non-OVI-related circumstances apply to enhance the penalty for the new offense to a **first degree felony**:

- The offender was driving under a suspension or cancellation;
- The offender did not have a valid driver's license and was not eligible for renewal without examination;
- The offender was previously convicted of or pleaded guilty to a vehicular homicide offense; or
- The offender was previously convicted of or pleaded guilty to any traffic-related homicide, manslaughter, or assault offense.

Vehicular assault

The bill creates a new aggravated vehicular assault offense: it prohibits a person from causing serious physical harm to another (or another's unborn) as the proximate result of violating either the EWCD-while-driving prohibition or the distracted driving law. Serious physical harm means, among other things, physical harm that carries a substantial risk of death.³ The bill applies the current OVI-related aggravated vehicular assault penalties to a person who is convicted of or pleads guilty to this offense: a **third degree felony** and a **Class 3 driver's license suspension** (2 to 10 years).

Although there are several circumstances under current law that, if applicable, would enhance the penalty imposed for an OVI-related vehicular assault, only the following non-OVI-related circumstances apply to enhance the penalty for the new offense to a **second degree felony** and either a **Class 2** (3 years to life) or **Class 1 driver's license suspension** (life):

- The offender was driving under a suspension;
- The offender was previously convicted of or pleaded guilty to a vehicular assault offense; or
- The offender was previously convicted of or pleaded guilty to any traffic-related homicide, manslaughter, or assault offense.

Vehicular harm

The bill creates the new offense of vehicular harm, which prohibits causing either of the following as the proximate result of violating either the EWCD-while-driving prohibition or the distracted driving law:

- Physical harm (which is any injury, illness, or other physiological impairment, regardless of its gravity or duration) to another or another's unborn;
- Serious physical harm to property (any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment).⁴

If a person is convicted of or pleads guilty to this offense, the bill imposes a **first degree misdemeanor**, a **Class 5 driver's license suspension** (6 months to 3 years), and a **\$500 to \$1,000 fine**.

Points imposed on a driver's license

(R.C. 4510.036)

The bill imposes two additional points upon a person's driver's license when a court determines that the person has committed certain offenses while distracted, as illustrated in the table below.

³ R.C. 2901.01(A)(5), not in the bill.

⁴ R.C. 2901.01(A)(3) and (4), not in the bill.

Points imposed when driving distracted		
Offense	Current law	Under the bill
When a person exceeds the lawful limit by 30 m.p.h.	4 points	6 points
When the speed exceeds the lawful speed limit of 55 m.p.h. by more than 10 m.p.h.	2 points	4 points
When the speed exceeds the lawful speed limit of less than 55 m.p.h. by more than 5 m.p.h.	2 points	4 points
When the speed does not exceed the above-mentioned amounts	0 points	2 points
All other moving violations	2 points	4 points

The bill also imposes additional points upon a person's driver's license when a court determines that the person committed a violation of the EWCD-while-driving prohibition:

- A first offense in any three-year period: 2 points;
- A second offense in any three-year period: 3 points;
- A third or subsequent offense in any three-year period: 4 points.

When a driver receives 12 or more points on their driver's license in any two-year period, the driver is subject to a Class D administrative suspension (six months).⁵

Other provisions

(R.C. 3321.141, 4508.02, 4511.204, and 4511.991)

The bill requires the Director of Public Safety to expand driver's education regarding distracted driving. Currently, the Director must adopt rules that require driver's education to include instruction on the dangers of driving a motor vehicle while using an EWCD to write, send, or read a text. The bill broadens this to require the driver's education instruction to include education on the dangers of driving a vehicle while distracted generally, including using an EWCD and engaging in any other activity that distracts a driver from the safe and effective operation of a motor vehicle.

The bill also requires the Department of Transportation to erect signs regarding the new EWCD-while-driving prohibition in the following locations:

⁵ R.C. 4510.037, not in the bill.

- Where an interstate or United States route enters Ohio; and
- Where a road, originating from a commercial service airport, exits the airport's property.

Last, the bill amends the portion of the EWCD-while-driving statute that addresses allied offenses of similar conduct. Current law provides that the prosecution of the state texting-while-driving offense does not preclude a separate prosecution for a violation of a substantially equivalent municipal ordinance for the same conduct, but it states that the offenses are allied offenses of similar import. When an offender's conduct can be construed to constitute two or more allied offenses of similar import, the offender may be **charged** with **all** of the offenses, but prior to the conviction stage, the offenses merge and the offender may be **convicted** of **only one**. But, current law implies that a person may be convicted of both offenses – as such, the bill clarifies that there may only be one conviction.

Enforcement

(Sections 745.10 and 812.30)

The bill delays the effective date of its new distracted driving-related provisions for 180 days after the provisions would otherwise become effective (which is 90 days after enactment). Otherwise put, enforcement of the bill's provisions – use of an EWCD-while-driving, distracted driving, aggravated vehicular homicide, vehicular assault, vehicular harm, the imposition of points on a person's driver's license, driver's education, signage, and corrective changes – is delayed 180 days.

As for the EWCD-while-driving prohibition specifically, during the interim 180-day period, a law enforcement officer may stop a driver – but not issue a ticket, citation, or summons – for an action that would violate the new prohibition, if that provision were in effect. Instead, the officer may issue the person a written warning explaining the new prohibition. The written warning may notify the person of the specific date when law enforcement officers are authorized to begin issuing tickets, citations, and summons for violations of the new expanded prohibition.

But, during the interim period, a law enforcement officer may still issue a ticket, citation, or summons for a texting-while-driving violation as it exists currently.

Pedestrian right of way

(R.C. 4511.46)

The bill requires the driver of a vehicle to stop and yield the right-of-way to a pedestrian waiting at the curb to enter a crosswalk on the half of the road on which the vehicle is traveling when traffic control signals are not clearly assigning the right-of-way.

The bill also requires drivers to stop and yield the right-of-way to pedestrians, as opposed to slow down or stop to yield as current law requires, in either of the following circumstances when traffic control signals are not clearly assigning the right-of-way:

1. The pedestrian is in the crosswalk on the half of the road the vehicle is travelling; or

2. The pedestrian is in the crosswalk on the opposite half of the road the vehicle is travelling, but is approaching so closely that it would be dangerous for the vehicle to continue.

Additional pedestrian-crossing requirements

The bill does not change any of the following requirements under current law:

1. A pedestrian is not permitted to suddenly leave a curb or other safe place to walk or run into the path of a vehicle.

2. A driver is not required to yield to a pedestrian attempting to cross the road if a pedestrian tunnel or pedestrian overhead crossing is available for the pedestrian to use.

3. A driver of another vehicle, approaching from the rear, is not permitted to overtake and pass a vehicle that has stopped to yield to a pedestrian.⁶

Penalties

Current law, unchanged by the bill, specifies that failure to yield the right-of-way to a pedestrian in a crosswalk is a minor misdemeanor. If within one year of the offense, the offender previously has been convicted of or pleaded guilty to one additional predicate motor vehicle or traffic offense, the offender is guilty of a fourth degree misdemeanor. If within one year of the offense, the offender previously has been convicted of or pleaded guilty to two or more predicate motor vehicle offenses, the offender is guilty of a third degree misdemeanor.

If an offender commits the offense while distracted, the offender is also potentially subject to the additional \$100 fine established for distracted driving.⁷

Seizure of license plates after OVI offense

(R.C. 4511.195)

The bill requires license plates on a vehicle seized as part of an arrest for an OVI offense (impaired driving) to remain on the vehicle unless otherwise ordered by a court. Vehicle seizure is currently required when the vehicle is registered in the arrested person's name and one of the following applies:

1. Within ten years of the alleged OVI violation, the person previously has been convicted of or pleaded guilty to one or more OVI offenses or one or more other specified equivalent offenses; or

2. The person previously has been convicted of or pleaded guilty to an OVI offense under circumstances in which the violation was a felony.

Current law requires the arresting law enforcement officer to remove the license plates and the officer's agency to safely keep them separate from the vehicle.

⁶ R.C. 4511.48, not in the bill.

⁷ R.C. 4511.991.

BMV registration fee increase

(R.C. 4503.10, 4503.103, and 4503.65; Section 745.20)

Effective October 1, 2021, the bill increases from \$11 to \$21 the additional annual Bureau of Motor Vehicles (BMV) registration fee for a passenger vehicle, a noncommercial vehicle, a nonapportioned commercial bus, or a commercial trailer or semitrailer. It also increases the additional annual BMV registration fee for a nonapportioned commercial car from \$30 to \$40 on that date. The annual BMV registration fees are deposited into the Public Safety – Highway Purposes Fund and are used to defray the Department of Public Safety’s (DPS) costs associated with the administration and enforcement of the motor vehicle and traffic laws of Ohio.

Additionally, the bill increases the annual registration tax collected for apportioned commercial vehicles by \$10. These vehicles are the commercial cars and buses that register under the International Registration Plan (i.e., they operate regularly in multiple states and pay an apportioned registration rate to each of those states). The tax is deposited into the International Registration Plan Distribution Fund and is divided out to the state and local political subdivisions according to a statutory formula.⁸

Temporary motor vehicle license registration

(R.C. 4503.182, 2913.71, 4503.21, 4511.454, 4511.751, and 4519.10)

The bill changes the name of the temporary license placard or windshield sticker to temporary motor vehicle license registration.

The bill requires, rather than authorizes as in current law, Ohio licensed motor vehicle dealers and motorized bicycle dealers to issue the registrations by electronic means via computer equipment the dealers must buy and maintain, unless a dealer is authorized to do otherwise by the Registrar of Motor Vehicles (Registrar). The bill eliminates current requirements applicable to those dealers, including both of the following:

1. A requirement that the dealer notify the Registrar within 48 hours of the issuance of a temporary license placard by electronic or other Registrar-approved means; and
2. A requirement to pay a \$5 service fee when notifying the Registrar of the issuance of a temporary license placard by nonelectronic means.

Finally, the bill authorizes, rather than requires, the Registrar to adopt rules specifying procedures for reporting information from temporary license registration applications and for providing that information to law enforcement.

⁸ R.C. 4501.03, 4501.044, and 4503.02, not in the bill.

Production of validation and county stickers

(R.C. 4503.191 and Section 205.20)

The bill alters the authority of the Registrar to adopt rules allowing the Registrar or deputy registrars, in lieu of Ohio Penal Industries, to print or produce validation and county stickers by doing both of the following:

- Requiring the rules to expressly permit the Registrar and deputy registrars to provide for the printing or production of the stickers; and
- Removing the requirement that the stickers be produced in house.

Current law specifies that validation stickers and county identification stickers must be produced by Ohio Penal Industries unless the Registrar adopts rules that permit the Registrar or deputy registrars to print or otherwise produce them in house.

Issuance of registration certificates and stickers

(R.C. 4503.19, 4503.191, 4503.21, and 4503.83)

When a person registers a motor vehicle with the Registrar or a deputy registrar, the person is given multiple items:

1. A certificate of registration (a portion of which must be kept in the registered vehicle);
2. A license plate (if the person does not have one issued or the current one is damaged, lost, stolen, etc.);
3. A county sticker (if the person does not have one or is registering in a new county);
and
4. A validation sticker (to be placed on the license plate and indicating the registration's expiration date).

The bill makes a few adjustments to several of these items. It expands the methods by which the Registrar may deliver a certificate of registration to include electronic delivery. Under current law, the certificate must be delivered either in person or by regular mail.

The bill also removes the requirement that a validation sticker be issued for and displayed on a nonapportioned commercial tractor or any apportioned motor vehicle (e.g., a vehicle registering under the International Registration Plan). Under current law, validation stickers must be issued for and displayed on all vehicles.

Additionally, the bill allows the Registrar to issue a county identification sticker that identifies the county of registration either by the county's name or by the county's identifying number. Under current law, the Registrar must issue a county identification sticker identifying the county only by name for the standard license plates. However, the Registrar is allowed to issue the sticker identifying the county by name or number for nonstandard (specialty) license plates (because of spacing issues with the words and logos on those plates).

Specialty license plates

(R.C. 4501.01, 4503.511 (repealed), 4503.512 (repealed), 4503.77 (repealed), 4503.772 (repealed), 4503.79 (repealed), and 4503.791 (renumbered 4503.79); with conforming changes in 4501.21, 4503.19, 4503.29, 4503.51, 4503.513, 4503.573, 4503.581, 4503.591, 4503.593, 4503.67, 4503.68, 4503.69, 4503.771 (renumbered 4503.77), 4503.78, 4503.871, 4503.873, 4503.874, 4503.875, 4503.876, 4503.877, 4503.878, 4503.879, 4503.88, 4503.892, 4503.901, 4503.902, 4503.903, 4503.904, 4503.905, 4503.906, 4503.907, 4503.908, 4503.909, 4503.951, 4503.952, 4503.953, 4503.954, and 4503.955)

Continuing law establishes numerous license plates as alternatives to the standard-issue Ohio license plate. These alternative license plates display words or insignia representative of various organizations, causes, interests, and deeds.

Defining “specialty license plates”

Under current law, alternative license plates created by legislation are referred to and defined variously, including as “collegiate license plates” and “nonstandard license plates.” The bill eliminates the various terms and defines all such plates as “**specialty license plates.**” That is, any license plate, authorized by the General Assembly, that displays a combination of words, markings, logos, or other graphic artwork that is in addition to the words, images, and distinctive numbers and letters typically required on license plates.

Fees and taxes for specialty license plates

The bill specifies that the contribution amount for any specialty license plate is the same each year, regardless of whether the application is for the initial issuance or the renewal of the specialty license plate. Currently, each specialty license plate has a standard contribution amount for its issuance and renewal. The computer system used by the BMV for organizing specialty license plates is adjusted to handle different contribution amounts required for different plates (i.e., a \$20 contribution for the Ohio Agriculture license plate and a \$30 contribution for the Solon City School license plate). However, the system does not allow for a different contribution amount for the initial issuance and then the renewal of the same plate (i.e., a \$22 contribution the first year and then an \$11 contribution thereafter).

The bill also removes a prior intent statement contained in the law. That statement expressed the General Assembly’s intent that no legislation creating a new license plate or affecting an existing license plate may be approved by a General Assembly if that legislation does not provide for payment by persons requesting issuance of the license plate of all taxes and fees that are normally charged and collected in issuing special license plates. Future General Assemblies, however, are not bound by such intent statements. And, recent General Assemblies have established exemptions from the requirement to pay registration taxes and fees for disabled veterans and Gold Star families.⁹

⁹ R.C. 4503.29; R.C. 4503.41 and 4503.546, not in the bill.

Specialty license plate termination

Specialty license plates are created by legislation, and then typically implemented after the Registrar receives written statements from at least 150 individuals expressing interest in purchasing the specific specialty license plate. The bill does not change these procedures.

The bill does, however, eliminate a statutory process that allows the Registrar to terminate a special license plate program administratively if a minimum of 25 license plates of a particular type are not issued annually.

Under that process, during any calendar year, if the total number of motor vehicle registrations for a particular specialty license plate is less than 25, including both new and renewal registrations, the Registrar, between January 1 and January 15 of the following year, must send a written notice to the sponsor organization of the license plate (if one exists) informing the sponsor of that fact. During the calendar year in which the notice is sent, if the total number of motor vehicle registrations for that license plate again is less than 25, the program involving that license plate is terminated on December 31 of the same calendar year in which the notice is sent. Beginning the following January 1, no new registration applications involving that type of license plate will be accepted by the Registrar or a deputy registrar, but previously issued license plates may continue to be renewed as long as the plates are serviceable.

If a particular license plate program is terminated under the existing process, the sponsor may reestablish the program by applying to the Registrar with at least 25 persons signing a new petition indicating that they will purchase the license plates.

According to DPS, the existing process to terminate a specialty license plate is more time-consuming and costly than simply allowing the specialty license plate to continue to exist. Once the specialty license plate has been designed and created, it is printed at the time it is requested (rather than preprinted, as it used to be under former printing processes).

School reporting requirements

The bill eliminates reporting requirements that apply regarding certain high school and school district license plates. Under current law, those districts and schools must deliver an annual report to the Department of Mental Health and Addiction Services and the Registrar. The report must list the total amount of money received from license plate contributions that year, a list of expenditures made using those funds, and the total percentage of spending used to provide services for mental and emotional well-being (based on the required uses of the contributions for these plates).

If a school fails to submit the report by the end of each year, the Registrar is required to transmit the contribution made for each specialty license plate to the GRF until the report is received.

Technical changes

The bill also makes technical changes to several of the specialty license plates in order to standardize language and the types of vehicles that may be issued specialty license plates.

Certificate of title fees

(R.C. 4505.09 and 4519.59)

The bill increases, from \$15 to \$17, the fee for motor vehicle and specialty vehicle (e.g., snowmobiles, all-purpose vehicles, and off-highway motorcycles) certificates of title and directs the proceeds from the increase to the Security, Investigations, and Policing Fund. That fund is used for expenses related to criminal investigations and security conducted by DPS, including the State Highway Patrol.

Electronic certificates of title

(R.C. 4503.10, 4505.01, 4505.032, 4505.06, 4505.11, and 4505.19)

Casual sales and assignment form

Electronic certificates of title have been recorded and tracked through the automated title processing system in Ohio for nearly 20 years. An electronic certificate of title can be used in lieu of a physical certificate of title, particularly when a motor vehicle is either purchased or sold by a motor vehicle dealer. However, under current law, a casual transfer of a motor vehicle between two individuals who are not motor vehicle dealers must be done with a physical certificate of title. If a physical certificate of title has not been issued for that motor vehicle (because previous transactions involved a motor vehicle dealer), the current owner of the motor vehicle must obtain a physical certificate of title from a clerk of court in order to make the transfer.

The bill authorizes any person to transfer ownership of a motor vehicle without a physical certificate of title. In order to effectuate the transfer, the current owner must present sufficient proof of the owner's identity and complete and sign an assignment form (created by and available from the Registrar) to give to the new owner. The new owner then must give the assignment form, a completed application for a certificate of title, and the certificate of title fees to a clerk of a court of common pleas. If an electronic certificate of title was issued previously for the motor vehicle, either the prior or the new owner may notify the clerk of the transfer via electronic means (in a manner approved by the Registrar) and the transfer becomes complete when the clerk enters the information into the automated title processing system. The fees for an electronic certificate of title are the same as the fees for a physical certificate of title.

In addition to casual sales, the new assignment form may also be used to assign a motor vehicle to a salvage dealer when the assignor is not an insurance company. The bill makes conforming changes in the certificate of title laws to account for the new assignment form and to specify that any reference to a certificate of title includes both physical as well as electronic copies of that title.

Proof of ownership at registration

When a person initially applies for registration of a motor vehicle, that person must prove ownership of the motor vehicle being registered. The bill authorizes the Registrar or a deputy registrar to confirm the applicant's ownership of the motor vehicle electronically, as an

alternative to the applicant providing physical proof of ownership with the application. Under current law, the applicant must present either a physical certificate of title, a physical memorandum of title, or evidence of an electronic certificate of title included in the automated title processing system.

Online renewal of driver's license and identification card

(R.C. 4507.06, 4507.061, 4507.12, 4507.21, and 4507.51)

The bill authorizes the Registrar to allow online renewals of a driver's license or state identification card (ID) for eligible applicants. Under current law, online renewals are only authorized for members of the military and their dependents.¹⁰ The bill specifies that an applicant is eligible for online renewal if all of the following apply:

1. The applicant's current driver's license or ID was processed in person at a deputy registrar office;
2. The applicant has a photo on file with the Bureau of Motor Vehicles (BMV) from the applicant's current driver's license or ID;
3. The applicant's current driver's license or ID expires on the birthday of the applicant four years after it was issued;
4. The applicant is applying for a four-year driver's license or ID;
5. The applicant's current driver's license or ID is unexpired or expired not more than six months prior to the date of the application;
6. The applicant is a U.S. citizen and a permanent Ohio resident;
7. The applicant is between the ages of 21 and 65;
8. The applicant's current driver's license or driving privileges are not suspended, cancelled, revoked, or restricted, and the applicant is not otherwise prohibited by law from obtaining a driver's license or ID;
9. The applicant has no changes to the applicant's name or personal information, other than a change of address; and
10. The applicant has no medical restrictions (as specified by the Registrar) that would require an in-person application.

The bill specifies that the Registrar may require applicants to submit digital copies of any required identification or supporting documents as required by state or federal law. Additionally, it waives the vision-screening requirement for an applicant who renews a driver's license online. Effectively, an eligible applicant who takes advantage of the online renewal would receive a vision screening once every eight years, instead of every four years. Except as otherwise provided (i.e., the vision screening), applicants are required to comply with all other

¹⁰ R.C. 4507.18, not in the bill.

related driver's license and ID laws when renewing online. For instance, an applicant would still pay the typical fees for a driver's license or ID.

While the bill expands online renewal options, an applicant must still apply for all of the following in person at a deputy registrar office:

1. A temporary instruction permit;
2. A commercial driver's license or a commercial driver's license temporary instruction permit;
3. An initial issuance of an Ohio driver's license or identification card;
4. An initial issuance of a federally compliant driver's license or identification card;
5. An ignition interlock license; or
6. A nonrenewable license.

The bill authorizes the Registrar to adopt rules to implement and administer the online renewals. It also makes conforming changes in the driver's license and ID laws.

Sharing digital driver's license photos

(R.C. 4507.53)

The bill authorizes DPS to release its digitalized photographic records (i.e., I.D. photos) to the American Association of Motor Vehicle Administrators. The new authorization is to allow other state departments of motor vehicles that are participating in the association's State-to-State Verification Services and Digital Image Access and Exchange Program to use the photographic records for identity verification purposes.

Under current law, DPS may only release its digitalized photographic records to state, local, or federal government agencies, for criminal justice purposes, or to any court.

Single credential

(R.C. 4507.02, 4507.213, and 4507.50)

The bill prohibits both of the following:

1. A person from receiving a temporary instruction permit or identification card until a person surrenders any permit or card issued by another jurisdiction; and
2. A person from possessing more than one valid temporary instruction permit or identification card.

The bill also requires a person who becomes an Ohio resident to surrender any temporary instruction permit or identification card issued by another state to the Registrar or a deputy registrar within 30 days of becoming a resident. Accordingly, the new Ohio resident is prohibited from operating a motor vehicle if the resident fails to obtain a temporary instruction permit (or driver's license) within the 30-day period.

Under current law, a person is subject to all of the same prohibitions and requirements with respect to driver's licenses. The bill applies the current criminal penalty that applies to

those offenses, a first degree misdemeanor, to any violation of the prohibitions with respect to temporary instruction permits or identification cards.

For purposes of the above prohibitions and requirements, the Registrar must report both of the following to an issuing state other than Ohio:

1. The cancellation of any temporary instruction permit or identification card; and
2. Information that a temporary instruction permit or identification card has now been issued to the person in Ohio.

The Registrar or a deputy registrar must destroy cancelled permits and cards if not returned to the other state's issuing authority. Current law requires the Registrar or a deputy registrar to take these actions, as specified, with respect to driver's licenses. Finally, the bill specifies that the Registrar or a deputy registrar may only issue an identification card or temporary identification card when the person does not hold an identification card from another jurisdiction.

DEPARTMENT OF TRANSPORTATION

Navigable airspace

(R.C. 4561.01, 4561.021, 4561.05, 4561.06, 4561.08, 4561.09, 4561.11, 4561.12, 4561.14, 4561.30 (repealed), 4561.31, 4561.32, 4561.33, 4561.34, 4561.341, 4561.35, 4561.36, 4561.37, 4561.38, 4561.39, 4563.01, 4563.03, 4563.031, 4563.032, 4563.04, 4563.05, 4563.06, 4563.07, 4563.08, 4563.09, 4563.10, 4563.11, 4563.12, 4563.13, 4563.16, 4563.18, 4563.20, and 4563.21)

General authority

(R.C. 4561.01, 4561.05, 4561.32, 4563.03)

Under current law, the Department of Transportation (ODOT) is required to adopt rules for purposes of uniformly regulating the height and location of structures and objects of natural growth within an airport's navigable airspace, based on federal air navigation rules. The bill modifies ODOT's authority, the Office of Aviation's authority (within ODOT), and the related authority of airport zoning boards, to regulate obstructions to the navigable airspace in conformance with updates to federal law.

Under the bill, navigable airspace means the air and surface space around an airport that an aircraft requires to remain clear of obstructions, based on the obstruction standards specified in federal regulations and any Federal Aviation Administration (FAA) regulations, advisory circulars, and other guidance.¹¹ Obstruction means any structure that penetrates the navigable airspace, regardless of whether the structure is natural or not. It also clarifies that an

¹¹ Applicable federal regulations include 14 C.F.R. part 77.

airport includes heliports and seaplane landing sites, but does not include a federal navigable waterway or a military airport owned by the federal government.

The bill alters the federal documentation that ODOT must consider to waive compliance with its obstruction standards. ODOT must base its decision on consideration of FAA opinions, advisory circulars, design standards, and other similar guidance rather than specific FAA technical manuals as in current law.

Permit applications

(R.C. 4561.33)

The bill modifies the process by which a person must file an application for a permit with ODOT for a structure or object of natural growth that will penetrate, or is reasonably expected to penetrate, an airport's navigable airspace. Under current law, an applicant must either file a copy of the FAA form 7460-1 "Notice of Proposed Construction or Alteration" or an application form established by ODOT that contains statutorily specified information. Under the bill, an applicant must file the FAA form and, if the Office of Aviation requires the submission of an application, the applicant must also file an application established by the Office. Thus, under the bill, applicants must always file FAA form 7460-1.

The bill changes the timeline for filing an application to not less than 90 days nor more than two years prior to the proposed installation, rather than not less than 30 days nor more than two years prior. The bill retains the authority for the Office of Aviation to waive the timeline for unforeseen emergencies.

The bill specifies that an applicant for an amended permit (when the applicant is planning on modifying a structure or object of natural growth that required a permit previously) must file an application, as required by the Office of Aviation, in the same manner as an original application for a permit. It also specifies that an application for an amended permit has the same timeline as an application for an original permit – not less than 90 days nor more than two years prior to the proposed installation. The timeline may be waived for unforeseen emergencies.

Prohibitions, requirements, and court actions

(R.C. 4561.31, 4561.37, and 4561.39)

Current law prohibits a person from taking any of the following actions:

1. Installing a structure or object of natural growth that is reasonably expected to penetrate specified surfaces around an airport without first obtaining a permit;¹²

¹² Specifically: the clear zone surface, horizontal surface, conical surface, primary surface, approach surface, or transitional surface. The surfaces are used in creating airport zoning, but do not account for areas of the state that are outside airport zoning, but are impacted by air navigation.

2. Substantially changing a structure or object of natural growth that was installed prior to October 15, 1991, when the change will cause the structure or object to penetrate the specified surfaces around an airport, without first obtaining a permit; and

3. Substantially changing a permitted structure or object of natural growth without first obtaining an amended permit; or violating the terms and conditions of a permit.

The bill modifies the prohibitions by replacing the references to the airport's specified surfaces with a prohibition against penetrating navigable airspace. The change conforms state law with federal laws and regulations and takes into account all areas impacted by air navigation, rather than just the areas surrounding an airport.

The bill also eliminates the following two exceptions to these prohibitions:

1. An exception that provides that the replacement of an existing structure or object of natural growth with a structure or object that is not more than ten feet or 20% higher than the existing structure or object, whichever is higher, does not constitute a violation unless the structure or object will penetrate or is reasonably expected to penetrate the navigable airspace.

2. An exception that provides that any person who notified the FAA about their proposed construction or alteration of a structure or object of natural growth prior to June 1, 1991, and the FAA determined the structure or object was not a hazard to air navigation, is not required to obtain a permit from ODOT.

The bill requires a property owner with an object of natural growth that is penetrating navigable airspace to prune or remove the object. In the alternative, the owner may also allow the airport authority, the appropriate political subdivision or public body, or the agent or designee thereof to enter the property to prune or remove the object. The requirement is subject, however, to any preexisting permit waivers and any laws or regulations that were in existence at the time that the object of natural growth was originally installed or constructed.

The bill also establishes two specific forms of relief that the court may grant in order to prevent, restrain, correct, or abate any alleged or threatened violation of the law governing obstructions to the navigable airspace. Under current law, the court may grant any relief as may be necessary. The bill provides that the relief may solely include both of the following:

1. Authorizing ODOT, an airport authority, a political subdivision, or an agent thereof to enter the property on which the structure or object of natural growth is located; and

2. Authorizing all of the above to remove or trim the structure or object or otherwise correct or abate the violation or threatened violation at the expense of the structure, object, or property owner.

Applicability to existing structures

(R.C. 4561.37)

Generally

The bill clarifies a "grandfather" provision in current law that applies to structures or objects of natural growth that were in existence prior to the adoption or amendment of the law

governing obstructions to the navigable airspace. Under that provision, if a structure or object becomes nonconforming because of changes to the law or because ODOT issues a new rule or order, the law, rule, or order cannot be construed to require changes to that structure or object. The bill clarifies this provision of law by instead specifying that:

1. The law governing obstructions to the navigable airspace cannot be construed to require the removal or lowering of, or the making of any other change to, any structure or object that was in existence prior to October 15, 1991, unless the structure or object is substantially changed after the bill's effective date; and

2. Any permitted structure or object of natural growth is subject to the laws and rules effective on the date the permit is issued for that structure or object. However, any substantial change or growth to that structure or object is subject to the laws and rules that are effective on the date of the change or growth.

Exception

Current law establishes an exception to the limitation on the applicability of the law governing obstructions. Specifically, an owner of a nonconforming structure or object of natural growth that is permanently out of service or partially dismantled, destroyed, deteriorated, or decayed must demolish or remove that structure or object if ordered to do so by ODOT. The bill adds to this exception so that it applies to a nonconforming structure or object with a nonconforming use that is voluntarily discontinued for two years or more. It also alters the exception regarding a nonconforming structure or object that is permanently out of service or partially dismantled, destroyed, deteriorated, or decayed by doing both of the following:

1. Eliminating the requirement that the object or structure be *permanently* out of service; and

2. Applying the exception to any object or structure that is *placed* out of service.

ODOT liability

(R.C. 4561.40)

The bill provides that ODOT and the Office of Aviation within ODOT are not liable for any damages caused by a structure or object of natural growth that is an obstruction to the navigable airspace if any of the following applies:

1. The structure or object was installed, erected, constructed, established, changed, or altered without a permit;

2. A permit was issued for the structure or object, but the structure or object was not installed, erected, constructed, established, changed, or altered in compliance with the terms and conditions of the permit;

3. The structure or object was installed, erected, constructed, established, changed, or altered pursuant to a certificate issued by the Power Siting Board.

Airports and airport zoning

(R.C. 4561.11, 4563.03, 4563.08, 4563.18, and Chapter 4563)

Under current law, ODOT must approve all airports, landing fields, and landing areas before they can be used for commercial purposes and issue a certificate of approval to those that are approved. The bill clarifies that ODOT will conduct an inspection before approval and requires ODOT to establish, by rule, the documents and the information that must be filed with ODOT before granting or issuing approvals. The bill also clarifies that inspection and approval are required for all airports (whether publically or privately owned) and that landing areas include landing areas located on public waters

The bill also shifts responsibility for developing an airport approach plan from the Office of Aviation to the local airport zoning commission. The Office will still review and approve the plans, but the zoning commissions must develop the plan based on state and federal rules and regulations, local conditions, and characteristics of the specific airport and its air traffic.

For purpose of the law governing airport zoning, the bill clarifies that an airport includes an area with a hard landing surface of not less than 1,800 feet rather than 3,500 feet as in current law. And, it eliminates a provision of law that declares obstructions to be prima facie reasonable in an airport hazard area when the obstruction is either of the following, whichever is greater:

1. 40 feet or less above the airport elevation; or
2. Three feet for each 100 feet or fraction thereof that the obstruction is distant from the nearest point in the perimeter of the airport.

Technical and conforming changes

The bill updates outdated terminology and makes conforming changes in the laws governing aviation and airport zoning. For example, an “aviator license” is changed to a pilot certification or authorization and references to federal laws and regulations are updated to the current citations.

Bridge inspections

(R.C. 723.54, 5501.47, 5501.48, and 5534.20)

The bill alters the bridge inspection schedule for all bridges in Ohio, including toll bridges. Rather than current law’s annual inspection requirement, the inspection must occur on a schedule established by the Director of Transportation, but at least once every 24 months. A local authority, such as a municipal corporation or board of county commissioners, however, may still require a more frequent bridge inspection, at its discretion. Bridge inspections are conducted by the county engineer, a professional engineer, or other qualified person under the supervision of a professional engineer and are done in accordance with the standards in the Manual of Bridge Inspection.

Landslide mitigation and competitive bidding

(R.C. 5517.021)

The bill specifies that the Director is not required to follow competitive bidding procedures to install a drilled shaft retaining wall or driven pile retaining wall for landslide mitigation, provided the following conditions apply:

1. The length of the retaining wall does not exceed 5,000 square feet in size, inclusive of the above and below ground height of the retaining wall;
2. Any drilled shaft diameter does not exceed 24 inches; and
3. Any steel beam used in the retaining wall must weigh less than 35 pounds per foot.

Proceeding by force account

(R.C. 5517.02)

The bill clarifies that the Director may proceed without competitive bidding (known as proceeding by force account) for a highway maintenance project when the estimated cost of the completed project does not exceed \$30,000 per lane-mile (rather than \$30,000 per centerline mile as in current law). Centerline miles are calculated by measuring down the center of all lanes of traffic for each specified route. Lane miles are calculated by multiplying the centerline roadway length by the number of through lanes.

Thus, by setting the force account limit by lane mile, the bill has the effect of increasing the per mile force account limit. For example, under current law for a three-lane highway, if the force account limit is measured by center line, the Director can proceed by force account if the cost of highway maintenance does not exceed \$30,000 for all three lanes of travel. When calculating by lane mile, the Director can proceed by force account if the cost of highway maintenance does not exceed \$30,000 for each lane of travel.

Load limits on highways and bridges

(R.C. 5577.02 and 5577.045)

Generally, a person is prohibited from operating a vehicle on highways and bridges when the vehicle and its load exceed certain weight limitations, unless the person has a special permit. However, current law exempts a vehicle that runs on stationary rails or tracks and all fire department vehicles (e.g., a fire engine, fire truck, or similar vehicles) that exceed weight limits from the permit requirement. The bill removes the exemption for a vehicle that runs on stationary rails or tracks (thus, a driver of the vehicle will need to obtain a permit if the vehicle is over the weight limits), and narrows the weight exemption for fire department vehicles.

Under the bill, the following fire department vehicles remain exempt from the weight requirements (and do not require a permit) while discharging their functions:

1. A two-axle fire engine, with a front axle maximum weight of 24,000 pounds and rear axle maximum weight of 33,500 pounds and a minimum wheelbase of 15 feet; and

2. A fire engine with a maximum gross vehicle weight of 86,000 pounds while operating on the interstate highway system highways and within one road mile of an interstate entrance or exit ramp.

Therefore, any other fire department vehicle that is above the general weight limits will require a permit.

Outdoor advertising devices

(R.C. 5516.01, 5516.02, 5516.05, 5516.06, 5516.061, and 5516.11)

The bill limits the application of the Outdoor Advertising Law to any type of outdoor sign or billboard (device, figure, painting, drawing, message, placard, poster, or any other contrivance) to which both of the following apply:

1. It is owned or operated by a person or entity that earns compensation for the placement of a message on it; and
2. It is visible from the main traveled way of any highway on the interstate system or primary system in this state.

The bill specifies that compensation, for purposes of outdoor advertising devices, is the exchange of anything of value including money, securities, real property interests, goods, services, a promise of future payment, or forbearance of a debt.

Currently the Outdoor Advertising Law applies to any advertising device, compensated or uncompensated. The Law specifies that an advertising device is any type of outdoor sign or billboard that is intended to advertise and is visible from the main traveled way of any highway on the interstate system or primary system in this state.

Because the bill applies the Outdoor Advertising Law only to compensated signs, it eliminates the authority of the Director of Transportation to order nonconforming uncompensated signs to be removed. This change attempts to resolve a potential constitutional conflict with the regulatory scheme established under current law. Specifically, current law may violate the free speech provisions of the First Amendment to the U.S. Constitution because ODOT may need to assess the speech content of a sign in order to determine whether the sign complies with the law.¹³ It is unclear if the changes made by the bill fully address this potential First Amendment conflict.

Further, the distinction in the bill between compensated and uncompensated signs is problematic because it is not a distinction made in federal law. Thus, if enacted, the bill may risk the loss of federal highway funding because of this potential conflict (see **COMMENT**).

¹³ See *Thomas v. Bright*, 937 F.3d 721 (6th Cir. 2019).

Scenic byways

(R.C. 5516.05)

The bill expands the authority of the Director to designate a scenic byway to include any portion of a state, county, municipal, or township road or highway. Under current law, the Director may only designate highways on the interstate, national, or primary system as scenic byways.

Maintenance of interstate highways

(Section 203.70)

The bill states that ODOT has the responsibility to maintain all interstate highways in Ohio. It permits the Director to enter into an agreement with a political subdivision to allow the political subdivision to remove snow and ice from and to maintain, repair, improve, or provide lighting on interstate highways located within the political subdivision's boundaries in order to meet federal highway requirements. Additionally, if there is a written agreement between the Director and the legislative authority of the political subdivision, ODOT may reimburse that municipal corporation for all or part of the costs incurred by the political subdivision maintaining, repairing, lighting, and removing snow and ice from the interstate highways in their boundaries. This permissive authority is an extension and revision of the authority granted to the Director in 2019 in H.B. 62 (the prior transportation budget). The prior authority only applied to municipal corporations and not to political subdivisions generally.

Catastrophic Snowfall Program

(Section 755.40)

The bill continues, through FY 2023, the Catastrophic Snowfall Program to provide monetary aid for snow removal costs for municipal corporations, counties, and townships that receive 18 or more inches of snow in a 24-hour period and that request the aid. The Director must establish procedures for implementing and administering the program. The procedures must include:

1. An application process;
2. A system for verifying the amount of snow the applicant received; and
3. A process for administering snow removal aid to a qualified applicant.

The current program is set to expire at the end of FY 2021.

ODOT rest areas

(Section 509.30)

The bill stipulates that, during FYs 2022 and 2023, ODOT may close a rest area under its jurisdiction only if it keeps the parking lot open for use by commercial motor vehicles. This is a continuation of the same stipulation previously established for FYs 2020 and 2021.

Indefinite delivery indefinite quantity (IDIQ) contracts

(Section 203.100)

The bill requires the Director to advertise, seek bids for, and award indefinite delivery indefinite quantity (IDIQ) contracts for not more than two projects in fiscal years 2022 and 2023. An IDIQ contract is a contract for an indefinite quantity, within stated limits, of supplies or services that will be delivered by the awarded bidder over a defined contract period. For purposes of entering into IDIQ contracts, the Director is required to prepare bidding documents, establish contract forms, determine contract terms and conditions, develop and implement a work order process, and take any other action necessary to fulfill the Director's duties and obligations related to IDIQ contracts. The Director must ensure that an IDIQ contract includes the maximum overall value of the contract, which may include an allowable increase of \$100,000 or 5% of the advertised contract value, whichever is less, and the duration of the contract, including a time extension of up to one year if determined appropriate by the Director. The requirements pertaining to IDIQ contracts are an extension of the requirements from previous transportation budgets.

TAXATION

Disclosing taxpayer information to verify grant or loan eligibility

(R.C. 5703.21(C)(20))

The bill authorizes the Department of Taxation to disclose to the Ohio Rail Development Commission confidential taxpayer information, except information prohibited from being disclosed under federal law, for the sole purpose of verifying the taxpayer's eligibility for grants or loans administered by the Commission. The Commission, in turn, may disclose such information only if necessary to evaluate a taxpayer's eligibility for the loan or grant.

Continuing law permits disclosure of certain taxpayer information in the Department of Taxation's possession to other state agencies and offices under specified circumstances to aid in the implementation of Ohio law. Otherwise, the Department may not disclose such information, and any Department agent or employee that does so is subject to employment termination and a fine.

Transit authority membership and taxation

(R.C. 306.322)

Membership expansion

The bill temporarily reauthorizes and modifies a special procedure in current law that previously expired in 2013 to allow a county, municipal corporation, or township to join a regional transit authority (RTA) that (1) levies a property tax and (2) includes in its membership political subdivisions located in a county with a population of at least 400,000 (referred to in this analysis as a "qualifying RTA"). The Toledo Area RTA appears to be the only RTA that meets both of these criteria.

Under the authorization that expired in 2013, a municipality or township could adopt a resolution proposing to join a qualifying RTA satisfying the criteria listed above for a limited period of three years or without a time limit. If a majority of the subdivisions comprising the RTA approved the inclusion of the additional township or municipality, a ballot question could be submitted to the voters in the subdivision proposing to join the RTA. If the question was approved, the inclusion of the additional subdivision was effective six months from the date the result was certified, and the RTA could extend its existing property tax levy to the new territory. If the subdivision was added to the RTA for only three years, no further action was needed to remove the territory added and reduce the RTA to its previous size. The RTA, as reduced, was entitled to levy and collect any previously authorized and unexpired property taxes, as if the enlargement had not occurred.

The bill reauthorizes this process through the end of 2022, and, in addition to a municipality or township, also allows a county to join its territory to a qualifying RTA in this manner.

Tax conversion

Instead of authorizing a vote in the joined subdivision to expand the qualifying RTA's property tax to the new territory, the bill alternatively authorizes the RTA to submit a combined question to voters in the entire RTA territory, as it would be enlarged, to not only allow the new subdivision to join, but to repeal all property taxes levied by the RTA and to instead levy a sales and use tax. Under continuing law, an RTA that includes all area of the most populous county that is part of the RTA may levy sales and use tax of up to 1.5%. This combined question was not authorized as part of the joinder process that expired in 2013. This option is only available if the new territory is proposed to be joined permanently, rather than just for three years.

To initiate this process, the RTA must adopt and certify to the board of elections a resolution that includes (1) the date the territory is to be added to the RTA, (2) the last tax year the RTA will levy property tax, and (3) the sales and use tax rate and date that levy will commence. The additional subdivision may not be joined until the property taxes levied by the RTA are repealed, and the RTA may not concurrently levy property tax and sales and use tax. (However, property tax may continue to be levied in the original territory of the RTA to the extent necessary to pay off debt instruments issued in anticipation of the collecting the tax.)

The ballot question must be submitted to all voters in the RTA, including the subdivision proposing to join the RTA. If a majority of the voters approve the ballot question, the RTA may proceed with adding the new territory, repealing RTA property taxes, and levying an RTA sales and use tax, as provided in the resolution.

Motor fuel tax allowances and refunds

(Section 757.20)

Since FY 2008, each motor fuel dealer that properly files and pays monthly motor fuel excise taxes may deduct from the payment the tax otherwise due on 1% of the fuel the dealer

received, minus 0.5% of the fuel sold to retail dealers.¹⁴ This allowance is to cover the costs of filing the report and to compensate for evaporation, shrinkage, and other “unaccounted for” losses. Under permanent codified law, however, the percentages are 3% and 1%, respectively.¹⁵ But each of the last seven transportation appropriation acts reduced the 3% discount to 1% (minus 0.50% of fuel sold to retail dealers). The bill continues the allowance at the reduced 1% level throughout the FY 2022-2023 biennium.

Retail fuel dealers who have purchased fuel on which the excise tax has been paid may receive a refund to account for evaporation and shrinkage.¹⁶ In permanent codified law, the refund equals 1% of the taxes paid on the fuel each semiannual period. But, as with the dealer shrinkage allowance, the retailer refund has been reduced to 0.5% for each fiscal year from 2008 through 2021 by uncodified provisions in the last seven transportation appropriation acts. The bill continues the reduced percentage at this level through the FY 2022-2023 biennium.

COMMENT

Outdoor advertising devices

Loss of federal highway money

The bill limits the Director of Transportation’s authority to regulate uncompensated highway advertising devices. Under current law, the Director of Transportation may order certain nonconforming advertising devices, including uncompensated advertising devices, to be removed if the device is within 660 feet of the edge of the right-of-way of a highway on the interstate or primary system (or outside of the 660-foot zone in nonurban areas).¹⁷

Under the federal Highway Beautification Act, any advertising device is generally prohibited from being located within 660 feet of the edge of the right-of-way of a highway on the interstate or primary system (or outside of the 660-foot zone in nonurban areas). If a state does not comply with this requirement, the U.S. Secretary of Transportation must reduce that state’s federal highway funding by 10%. Federal law does not differentiate between compensated and uncompensated signs.¹⁸ By failing to enforce the federal law on uncompensated signs, Ohio may risk losing federal highway funding.

¹⁴ Section 757.20 of H.B. 166 of the 133rd General Assembly.

¹⁵ R.C. 5735.06(B)(1)(c), not in the bill.

¹⁶ R.C. 5735.141, not in the bill.

¹⁷ R.C. 5516.08, not in the bill.

¹⁸ 23 United States Code (U.S.C.) § 131.

HISTORY

Action	Date
Introduced	02-09-21
