

ADOPTING ORDINANCE
TRAFFIC

City of Brecksville

State of Ohio

ORDINANCE No. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF BRECKSVILLE, OHIO TO PROVIDE AMENDMENTS TO TRAFFIC BRECKSVILLE CITY CODE SECTIONS 301.251, 301.35, 301.52, 303.01, 303.99, 313.01, 331.14, 331.19, 331.21, 331.26, 331.35, 331.38, 331.41, 331.45, 333.01, 333.021, 333.03, 335.15, 337.01, 337.02, 337.16, 337.18, 337.20, 337.26, 339.01, 339.14, 343.01, 351.04, 371.13, 373.03, 373.07, 375.04; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Brecksville, Ohio is authorized by ORC § 715.01 to adopt ordinances relating to its property, affairs and local government; and

BE IT ORDAINED BY THE CITY OF BRECKSVILLE, STATE OF OHIO:

Section 1. That the Code of Ordinances of the City of Brecksville, Ohio (meaning City Municipal Code) is hereby amended by adding the provisions as provided below.

Section 2. The addition, amendment, or removal of Municipal Brecksville City Code Sections when passed in such form as to indicate the intention of the governing authority of the City of Brecksville, Ohio to make the same a part of the Municipal Code shall be deemed to be incorporated in the Municipal Code, so that reference to the Municipal Code includes the additions, amendments, and removals.

Section 3. The codifier (meaning the person, agency or organization authorized to prepare the supplement to the Code of Ordinances of the City of Brecksville, Ohio) is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the City's Municipal Code.

Section 4. Supplementation of Code.

(a) In preparing a supplement to the City's Municipal Code, all portions of this ordinance which have been repealed shall be excluded from the City's Municipal Code by the omission thereof from reprinted pages.

(b) When preparing a supplement to the City's Municipal Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the City's Municipal Code printed in the supplement, and make changes in such catchlines, headings, and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the City's Municipal Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the City's Municipal Code which embody the substantive sections, or the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the City's Municipal Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the City's Municipal Code.

(c) In preparing a supplement to the City's Municipal Code, the pages of a supplement shall be so numbered that they will fit properly into the City's Municipal Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the City's Municipal Code will be current through the date of the adoption of the latest ordinance included in the supplement.

Section 5. Provisions of Section 6 that duplicate or track State statutes which do not become effective until after the effective date of this ordinance, shall not take effect until such statutes take effect.

Section 6. The following sections and subsections of the Municipal Code are new or have been amended with new matter in the Municipal Code, and are hereby approved, adopted, and enacted:

Sec. 301.251. Predicate motor vehicle or traffic offense.

Predicate motor vehicle or traffic offense means any of the following:

(1) A violation of R.C. §§ 4511.03, 4511.051, 4511.12, 4511.132, 4511.16, 4511.20, 4511.201, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.451, 4511.452, 4511.46, 4511.47, 4511.48, 4511.481, 4511.49, 4511.50, 4511.511, 4511.522, 4511.53, 4511.54, 4511.55, 4511.56, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.66, 4511.661, 4511.68, 4511.70, 4511.701, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, 4511.73, 4511.763, 4511.771, 4511.78, or 4511.84;

- (2) A violation of R.C. §§ 4511.17(A)(2), 4511.51(A) to (D), or 4511.74(A);
- (3) A violation of any provision of R.C. §§ 4511.01 to 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated;
- (4) A violation of R.C. § 4511.214;
- (5) A violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in subsections (1), (2), (3), or (4) of this definition.
(R.C. § 4511.01(III))

Sec. 301.35. School bus.

School bus means every bus designed for carrying more than nine passengers that is owned by a public, private or governmental agency or institution of learning and operated for the transportation of children to or from a school session or a school function, or owned by a private person and operated for compensation for the transportation of children to or from a school session or a school function; provided school bus does not include a bus operated by a municipally owned transportation system, a mass transit company operating exclusively within the territorial limits of the municipality, or within such limits and the territorial limits of municipal corporations immediately contiguous to the municipality, nor a common passenger carrier certified by the Public Utilities Commission unless such bus is devoted exclusively to the transportation of children to and from a school session or a school function, and school bus does not include a van or bus used by a licensed child ~~day-care~~ center or Type A Family ~~Day-Child~~ Care Home to transport children from the child ~~day-care~~ center or Type A Family ~~Day-Child~~ Care Home to a school if the van or bus does not have more than 15 children in the van or bus at any time.

(R.C. § 4511.01(F); '64 Code, § 301.35)

Sec. 301.52. Wheelchair, motorized.

Wheelchair, motorized means any self-propelled vehicle designed for, and used by, a ~~handicapped~~ person with a disability and that is incapable of a speed in excess of eight miles per hour.

(R.C. § 4511.01(EEE))

Sec. 303.01. Compliance with lawful order of police officer; fleeing.

- (a) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control, or regulate traffic.
- (b) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.

(c) (1) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer.

(2) A violation of subsection (a) of this section is a misdemeanor of the first degree.

(3) Except as provided in subsections (c)(4) and (5) of this section, a violation of subsection (b) of this section is a misdemeanor of the first degree.

(4) Except as provided in subsection (c)(5) of this section, a violation of subsection (b) of this section is a felony and shall be prosecuted under appropriate state law if the jury or judge as trier of fact finds by proof beyond a reasonable doubt that in committing the offense, the offender was fleeing immediately after the commission of a felony.

(5) A. A violation of subsection (b) of this section is a felony and shall be prosecuted under appropriate state law if the jury or judge as trier of fact finds any of the following by proof beyond a reasonable doubt:

1. The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property.

2. The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

B. If a police officer pursues an offender who is violating subsection (b) of this section and subsection (c)(5)A. of this section applies, the sentencing court, in determining the seriousness of an offender's conduct for purposes of sentencing the offender for a violation of subsection (b) of this section, shall consider, along with the factors set forth in

R.C. §§ 2929.12 and 2929.13 that are required to be considered, all of the following:

1. The duration of the pursuit;

2. _____ The distance of the pursuit;

***Cross reference**—Exceptions for emergency or public safety vehicles, see §§ 331.20 and 333.06

State law reference—Citations for minor misdemeanors, see R.C. § 2935.26

State law reference—Disposition of unclaimed vehicles, see R.C. §§ 737.32 and 4513.60 et seq

State law reference—Distinctive uniforms required for traffic officers, see R.C. § 4549.15

State law reference—Marking motor vehicles used by traffic officers, see R.C. § 4549.13

State law reference—Power of trial court of record to suspend or revoke license for certain violations, see R.C. §§ 4507.16 and 4507.34

State law reference—State point system suspension, see R.C. § 4507.021

State law reference—Uniform application of Ohio Traffic Law, see R.C. § 4511.06

3. The rate of speed at which the offender operated the motor vehicle during the pursuit;

4. Whether the offender failed to stop for traffic lights or stop signs during the pursuit;
5. The number of traffic lights or stop signs for which the offender failed to stop during the pursuit;
6. Whether the offender operated the motor vehicle during the pursuit without lighted lights during a time when lighted lights are required;
7. Whether the offender committed a moving violation during the pursuit;
8. The number of moving violations the offender committed during the pursuit;
9. Any other relevant factors indicating that the offender's conduct is more serious than conduct normally constituting the offense.

(d) In addition to any other sanction imposed for a violation of subsection (a) of this section or a misdemeanor violation of subsection (b) of this section, the court shall impose a class five suspension from the range specified in R.C. § 4510.02(A)(5). In addition to any other sanction imposed for a violation of division (A) of this section or a misdemeanor violation of division (B) of this section, the court shall impose a class five suspension from the range specified in R.C. § 4510.02(A)(5). If the offender previously has been found guilty of an offense under this section or under R.C. § 2921.331 or any other substantially equivalent municipal ordinance, in addition to any other sanction imposed for the offense, the court shall impose a class one suspension as described in R.C. § 4510.02(A)(1). The court may grant limited driving privileges to the offender on a suspension imposed for a misdemeanor violation of this section as set forth in R.C. § 4510.021. No judge shall suspend any portion of the suspension under a class one suspension of an offender's license, permit, or privilege required by this subsection.

(e) As used in this section: *Moving violation* has the same meaning as in R.C. § 2743.70. *Police officer*

has the same meaning as in R.C. § 4511.01.

State law reference—R.C. § 2921.331(A)—(C), (E), (F)

Cross reference—Penalty, see § 303.99

Sec. 303.99. General Traffic Code penalties.

(a) Whoever violates any provision of this Traffic Code for which no penalty otherwise is provided in the section violated is guilty of one of the following:

(1) Except as otherwise provided in subsections (a)(2) or (a)(3) of this section, a minor misdemeanor;

(2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, a misdemeanor of the fourth degree;

(3) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two or more predicate motor vehicle or traffic offenses, a misdemeanor of the third degree.

(b) *Violations committed while distracted.*

(1) As used in this section and each section referenced in subsections (b)(2) of this section, all of the following apply:

A. *Distracted* means doing either of the following while operating a vehicle:

1. Using an handheld electronic wireless communications device, as defined in R.C. § 4511.204, ~~except when utilizing any of the following: in violation of that section;~~

a. ~~The device's speaker phone function;~~

b. ~~A wireless technology standard for exchanging data over short distances;~~

c. ~~A "voice operated or hands free" device that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;~~

d. ~~Any device that is physically or electronically integrated into the motor vehicle.~~

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 ability of the operator to drive the vehicle safely.

B. *Distracted* does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of R.C. § 4511.84, or any substantially equivalent municipal ordinance.

C. *Distracted* does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage, or a circumstance affecting the health or safety of individuals. As used in this subsection (b)(1)C.:

1. *Utility* means an entity specified in R.C. § 4905.03(A), (C), (D), (E), or (G).

2. *Utility service vehicle* means a vehicle owned or operated by a utility.

(2) If an offender violates R.C. §§ 4511.03, 4511.051, 4511.12, 4511.121, 4511.132, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.44, 4511.441, 4511.451, 4511.46, 4511.47, 4511.54, 4511.55, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, or 4511.73, or any substantially equivalent municipal ordinance, while distracted and the distracting activity is a contributing factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding R.C. § 2929.28, is subject to an additional fine of not more than \$100.00 as follows:

A. 1. Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation, or summons for a violation of any of the aforementioned sections of the Ohio Revised Code, or any substantially equivalent municipal ordinance, that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation, or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of \$100.00.

2. In lieu of payment of the additional fine of \$100.00, the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the Ohio Director of Public Safety. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of \$100.00, so long as the offender submits to the court both the offender's payment in full and such written evidence within ninety days of the underlying violation that resulted in the imposition of the additional fine under division (2) of this section.

B. 1. If the offender appears in person to contest the ticket, citation, or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than \$100.00.

2. If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than \$100.00, the court shall inform the offender that, in lieu of payment of the additional fine of not more than \$100.00, the offender instead may elect to attend the distracted driving safety course described in subsection (b)(2)A. of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than \$100.00, so long as the offender submits to the court the offender's payment and such written evidence within ninety days of the underlying violation that resulted in the imposition of the additional fine under division (2) of this section.

C. If a law enforcement officer issues an offender a ticket, citation, or summons for a violation of any of the sections of the Revised Code listed in division (2) of this section that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the officer shall do both of the following:

1. Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;
2. Ensure that such report indicates the offender's race.

(c) *Driving upon sidewalks, street lawns or curbs.* Whoever violates section 331.37 is guilty of a

misdemeanor of the first degree.

(d) *Handicapped parking violation.* Whoever violates subsections (f)(1)A. or B. of section 351.04 is guilty of a misdemeanor and shall be fined not less than \$250.00 nor more than \$500.00, but in no case shall an offender be sentenced to any term of imprisonment.

(1) Arrest or conviction for a violation of subsections (f)(1)A. or B. of section 351.04 does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(2) Except as provided in this subsection, the municipality shall use the fine moneys it receives under this subsection to pay the expenses it incurs in complying with the signage and notice requirements contained in subsection (e) of section 351.04. The municipality may use up to 50 percent of each fine it receives under this subsection to pay the costs of educational, advocacy, support, and assistive technology programs for persons with disabilities, and for public improvements within the municipality that benefit or assist persons with disabilities, if governmental agencies or nonprofit organizations offer the programs.

(R.C. § 4511.99; R.C. § 4511.991; '64 Code, § 303.99; Ord. 2958, passed 6-7-88; Am. Ord. 3813, passed 5-16-00)

Sec. 313.01. Obedience to traffic-control devices.

(a) (1) No pedestrian or driver of a vehicle shall disobey the instructions of any traffic-control device placed in accordance with the provisions of this Traffic Code, unless at the time otherwise directed by a police officer.

(2) No provision of this Traffic Code for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this Traffic Code does not state that signs are required, that section shall be effective even though no signs are erected or in place.

(b) (1) Except as provided in subsection (c) of this section, any operator of a commercial motor vehicle, upon approaching a scale location established for the purpose of determining the weight of the vehicle and its load, shall comply with any traffic control device or the order of a peace officer directing the vehicle to proceed to be weighed or otherwise inspected.

(2) Any operator of a commercial motor vehicle, upon bypassing a scale location in accordance with subsection (c) of this section, shall comply with an order of a peace officer to stop the vehicle to verify the use and operation of an electronic clearance device.

(3) If the offender commits the offense while distracted and the distracting activity is a contributing factor

to the commission of the offense, the offender is subject to the additional fine established under R.C. § 4511.991.

(c) Any operator of a commercial motor vehicle that is equipped with an electronic clearance device authorized by the Superintendent of the State Highway Patrol under R.C. § 4549.081 may bypass a scale location, regardless of the instruction of a traffic control device to enter the scale facility, if either of the following apply:

(1) The in-cab transponder displays a green light or other affirmative visual signal and also sounds an affirmative audible signal;

(2) Any other criterion established by the Superintendent of the State Highway Patrol is met.

(d) Any peace officer may order the operator of a commercial motor vehicle that bypasses a scale location to stop the vehicle to verify the use and operation of an electronic clearance device.

(e) As used in this section, *commercial motor vehicle* means any combination of vehicles with a gross vehicle weight rating or an actual gross vehicle weight of more than 10,000 pounds if the vehicle is used in interstate or intrastate commerce to transport property and also means any vehicle that is transporting hazardous materials for which placarding is required pursuant to 49 C.F.R. Parts 100 to 180.

***Cross reference**—Traffic-control devices defined, see § 301.46

State law reference—Designation of through streets or stop intersections, see R.C. §§ 4511.07(F) and 4511.65

State law reference—Placing and maintaining local traffic-control devices, see R.C. §§ 4511.10 and 4511.11

State law reference—Traffic law photo-monitoring devices, state regulations, see R.C. §§ 4511.092 et seq.

State law reference—Uniform system of traffic-control devices, see R.C. §§ 4511.09 and 4511.11(D)

(f) No person shall use an electronic clearance device if the device or its use is not in compliance with rules of the Superintendent of the State Highway Patrol.

(g) (1) Except as otherwise provided in this subsection, whoever violates subsection (a) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates subsection (a) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates subsection (a) of this section is guilty of a misdemeanor of the third degree. If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under subsection 303.99(b).

(2) Whoever violates subsection (b) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to a violation of subsection (b) of this section or any substantially equivalent state law or municipal ordinance, whoever violates subsection (b) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of subsection (b) of this section or any substantially equivalent state law or municipal ordinance, whoever violates subsection (b) of this section is guilty of a misdemeanor of the third degree. If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under subsection 303.99(b).

(3) Whoever violates subsection (f) of this section is guilty of a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense. (R.C. § 4511.12(A); R.C. § 4511.12(B); R.C. § 4549.081(B); R.C. § 4549.081(C); R.C. § 4511.121(A)—(E); '64 Code, § 313.01)

Cross reference—Penalty, see § 313.99

Sec. 331.14. Signals before changing course, turning or stopping.

(a) (1) No person shall turn a vehicle or move right or left upon a highway unless and until the person has exercised due care to ascertain that the movement can be made with reasonable safety, nor without giving an appropriate signal in the manner hereinafter provided.

(2) When required, a signal of intention to turn or move right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning, except that in the case of a person operating a bicycle or electric bicycle, the signal shall be made not less than one time but is not required to be continuous. A bicycle or electric bicycle operator is not required to make a signal if the bicycle or electric bicycle is in a designated turn lane, and a signal shall not be given when the operator's hands are needed for the safe operation of the bicycle or electric bicycle.

(3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear, when there is opportunity to give a signal.

(4) Any stop or turn signal required by this section shall be given either by means of the hand and arm, or by signal lights that clearly indicate to both approaching and following traffic the intention to turn or move right or left, except that any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lights when the distance from the center of the top of the steering post of the rear limit of the body or load thereof exceeds 14 feet, whether a single vehicle or a combination of vehicles.

(5) The signal lights required by this section shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the

rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under subsection 303.99(b).

(R.C. § 4511.39; '64 Code, § 331.14)

Cross reference—Penalty, see § 331.99

Sec. 331.19. Operation of vehicle at stop signs.

(a) Except when directed to proceed by a law enforcement officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under subsection 303.99(b).

(R.C. § 4511.43(A); '64 Code, § 331.19)

Cross reference—Penalty, see § 331.99

Sec. 331.21. Right-of-way of public safety vehicle.

(a) Upon the approach of a public safety vehicle or coroner's vehicle, equipped with at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and the driver is giving audible signal by siren, exhaust whistle or bell, no driver of any other vehicle shall fail to yield the right-of-way, immediately drive if practical to a position parallel to, and as close as possible to, the right edge or curb of the street or highway clear of any intersection, and stop and remain in that position until the public safety vehicle or coroner's vehicle has passed, except when otherwise directed by a police officer.

(b) This section does not relieve the driver of a public safety vehicle or coroner's vehicle from the city to drive with due regard for the safety of all persons and property upon the highway.

(c) This section applies to a coroner's vehicle only when the vehicle is operated in accordance with R.C. § 4513.171. As used in this section, *coroner's vehicle* means a vehicle used by a coroner, deputy coroner or coroner's investigator that is equipped with a flashing, oscillating or rotating red or blue light and a siren, exhaust whistle or bell capable of giving an audible signal.

(d) Except as otherwise provided in this subsection or subsection (e) or in R.C. § 4511.454, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(e) (1) When the failure of a motor vehicle operator to yield the right-of-way to a public safety vehicle as required by subsection (a) of this section impedes the ability of the public safety vehicle to respond to an emergency, any emergency personnel in the public safety vehicle may report the license plate number and a general description of the vehicle and the operator of the vehicle to the law enforcement agency exercising jurisdiction over the area where the alleged violation occurred.

(2) A. Upon receipt of a report under subsection (e)(1) of this section, the law enforcement agency may conduct an investigation to attempt to determine or confirm the identity of the operator of the vehicle at the time of the alleged violation.

B. If the identity of the operator at the time of an alleged violation of subsection (a) of this section is established, the law enforcement agency has probable cause to issue either a written warning or a citation for that violation, and the agency shall issue a written warning or a citation to the operator.

C. If the identity of the operator of the vehicle at the time of the alleged violation cannot be established, the law enforcement agency may issue a written warning to the person who owned the vehicle at the time of the alleged violation. However, in the case of a leased or rented vehicle, the law enforcement agency shall issue the written warning to the person who leased or rented the vehicle at the time of the alleged violation.

(3) A. Whoever violates subsection (a) of this section based on a report filed under subsection

(e)(1) of this section is guilty of a minor misdemeanor and shall be fined \$150.00.

B. If a person who is issued a citation for a violation of subsection (a) of this section based on a report filed under subsection (e)(1) of this section does not enter a written plea of guilty and does not waive the person's right to contest the citation but instead appears in person in the proper court to answer the charge, the trier of fact cannot find beyond a reasonable doubt that the person committed that violation unless the emergency personnel who filed the report appears in person in the court and testifies.

(4) As used in this subsection (e):

License plate includes any temporary motor vehicle license registration issued under R.C. § 4503.182 or similar law of another jurisdiction.

Public safety vehicle does not include an unmarked public safety vehicle or a vehicle used by a public law enforcement officer or other person sworn to enforce the criminal and traffic laws of the state or a vehicle used by the motor carrier enforcement unit for the enforcement of orders and rules of the Public Utilities Commission.

(R.C. § 4511.45; R.C. § 4511.454; '64 Code, § 331.21)

Cross reference—Penalty, see § 331.99

Sec. 331.26. Driving upon street posted as closed for repair.

(a) No person shall drive upon, along, or across a street or highway, or any part of a street or highway that has been closed in the process of its construction, reconstruction, or repair, and posted with appropriate signs by the authority having jurisdiction to close the highway.

(b) (1) No person shall operate a vehicle on or onto a public street or highway that is temporarily covered by a rise in water level, including groundwater or an overflow of water, and that is clearly marked by a sign that specifies that the road is closed due to the rise in water level and that any person who uses the closed portion of the road may be fined up to \$2,000.00.

(2) A person who is issued a citation for a violation of subsection (b)(1) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in court, but instead must appear in person in the proper court to answer the charge.

(c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under subsection 303.99(b).

(ed) *[Violations.]*

(1) A. Except as otherwise provided in this subsection, whoever violates subsection (a) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has

been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates subsection (a) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates subsection (a) of this section is guilty of a misdemeanor of the third degree.

B. If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under subsection 303.99(b).

(2) A. Whoever violates subsection (b) of this section is guilty of a minor misdemeanor.

B. In addition to the financial sanctions authorized or required under R.C. § 2929.28 and to any costs otherwise authorized or required under any provision of law, the court imposing the sentence upon an offender who is convicted of or pleads guilty to a violation of subsection (b) of this section shall order the offender to reimburse one or more rescuers for the cost any such rescuer incurred in rescuing the person, excluding any cost of transporting the rescued person to a hospital or other facility for treatment of injuries, up to a cumulative maximum of \$2,000.00. If more than one rescuer was involved in the emergency response, the court shall allocate the reimbursement proportionately, according to the cost each rescuer incurred. A financial sanction imposed under this section is a judgment in favor of the rescuer and, subject to a determination of indigency under R.C. § 2929.28(B), a rescuer may collect the financial sanction in the same manner as provided in R.C. § 2929.28.

(d) As used in this section:

Emergency medical service organization has the same meanings as in R.C. § 9.60.

Firefighting agency has the same meanings as in R.C. § 9.60.

Private fire company has the same meanings as in R.C. § 9.60.

Rescuer means a state agency, political subdivision, firefighting agency, private fire company, or emergency medical service organization.

(R.C. § 4511.71(A), (B); R.C. § 4511.714(A)—(D); '64 Code, § 331.26)

Cross reference—Penalty, see § 331.99

Sec. 331.35. Occupying a moving trailer or manufactured home.

(a) ~~No~~ Except as provided in division (b) of this section, no person shall occupy any travel trailer, fifth wheel trailer, or manufactured or mobile home while it is being used as a conveyance upon a street or highway.

(b) Division (a) of this section does not apply to a fifth wheel trailer when both of the following apply:
(1) Any child riding in the fifth wheel trailer is properly secured in the manner provided in R.C. § 4511.81.

(2) The operator of the vehicle towing the fifth wheel trailer has some means of viable communication with the passengers riding in the trailer.

As used in this division, “viable communication” includes a cellular or satellite telephone, a radio, or any other similar electronic wireless communications device.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

The offense established under this section is a strict liability offense and R.C. § 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(R.C. § 4511.701; '64 Code, § 331.35)

Cross reference—Penalty, see § 331.99

Sec. 331.38. Stopping for school bus; discharging children.

(a) The driver of a vehicle, streetcar, or trackless trolley upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and county boards of developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed. It is no defense to a charge under this subsection that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by subsection (b) of this section.

(b) Every school bus shall be equipped with amber and red visual signals meeting the requirements of R.C. § 4511.771, and an automatically extended stop warning sign of a type approved by the ~~state board~~ department of education and workforce, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and county boards of developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and county boards of developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are loading or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the board.

(c) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle, streetcar,

or trackless trolley need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and county boards of developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle, streetcar, or trackless trolley overtaking the school bus shall comply with subsection (a) above.

(d) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and county boards of developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.

(e) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and county boards of developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child's or person's residence side of the road.

(f) (1) Whoever violates subsection (a) of this section may be fined an amount up to \$1,000.00. A person who is issued a citation for a violation of subsection (a) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.

(2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a Class 7 suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(7). When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the Registrar of Motor Vehicles, together with notice of the court's action.

(g) As used in this section:

Head start agency has the same meaning as in R.C. § 3301.32.

School bus as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the ~~State Board of Education~~ department, is painted the color and displays the markings described in R.C. § 4511.77, and is equipped with amber and red visual signals meeting the requirements of R.C. § 4511.77, irrespective of whether or not the bus has 15 or more children aboard at any time. The term does not include a van owned and operated by a head start agency, irrespective of its color, lights or markings.

('64 Code, § 331.38; Ord. 5304, passed 2-18-20)

Cross reference—Penalty, see § 331.99

Sec. 331.381 Operator to report violation.

When the operator of a school bus believes that a motorist has violated division (a) of section 331.38 of the Brecksville Codified Ordinances, the operator shall report the license plate number and a general description of the vehicle and of the operator of the vehicle to the law enforcement agency exercising jurisdiction over the area where the alleged violation occurred. The information contained in the report relating to the license plate number and to the general description of the vehicle and the operator of the vehicle at the time of the alleged violation may be supplied by any person with first-hand knowledge of the information. Information of which the operator of the school bus has first-hand knowledge also may be corroborated by any other person.

Upon receipt of the report of the alleged violation of division (a) of section 331.38 of the Brecksville Codified Ordinances, the law enforcement agency shall conduct an investigation to attempt to determine or confirm the identity of the operator of the vehicle at the time of the alleged violation. If the identity of the operator at the time of the alleged violation is established, the reporting of the license plate number of the vehicle shall establish probable cause for the law enforcement agency to issue a citation for the violation of division (a) 331.38 of the Brecksville Codified Ordinances. However, if the identity of the operator of the vehicle at the time of the alleged violation cannot be established, the law enforcement agency shall issue a warning to the owner of the vehicle at the time of the alleged violation, except in the case of a leased or rented vehicle when the warning shall be issued to the lessee at the time of the alleged violation.

Sec. 331.41. Slow-moving vehicles on freeways.

No person, unless otherwise directed by a police officer, shall:

(a) As a pedestrian, occupy any space within the limits of the right-of-way of a freeway, except in a rest area; on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for pedestrian use; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle; or to obtain assistance;

(b) Occupy any space within the limits of the right-of-way of a freeway, with: an animal-drawn vehicle; a ridden or led animal; herded animals; a pushcart; a bicycle, except on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for bicycle use; an electric bicycle; a bicycle with motor attached; a motor-driven cycle with a motor which produces not to exceed five brake horsepower; an agricultural tractor; farm machinery; except in the performance of public works or official duties.

(c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under R.C. § 4511.991.

(R.C. § 4511.051; '64 Code, § 331.41; Ord. 1874, passed 3-17-70)

Cross reference—Penalty, see § 331.99

Sec. 331.45. Texting while driving prohibited.

(a) No person shall ~~drive~~ operate a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using ~~a handheld electronic wireless communications device to write, send, or read a text based communication~~ holding, or physically supporting with any part of the person's body an electronic wireless communications device.

(b) Subsection (a) of this section does not apply to any of the following:

(1) A person using ~~a handheld~~ an electronic wireless communications device ~~in that manner to make contact,~~ 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;

(2) A person driving a public safety vehicle ~~who uses a handheld~~ while using an electronic wireless communications device ~~in that manner~~ in the course of the person's duties;

(3) A person using ~~a handheld~~ an electronic wireless communications device ~~in that manner~~ ~~whose~~ when the person's motor vehicle is in a stationary position and ~~who~~ is outside a lane of travel, at a traffic control signal that is currently directing traffic to stop, or parked on a road or highway due to an emergency or road closure;

(4) A person ~~reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device~~ using and holding an electronic wireless communications device directly near the person's ear for the purpose of making, receiving, or receiving conducting a telephone call, provided that the person does not manually enter letters, numbers, or symbols into the device;

(5) A person receiving wireless messages on an electronic wireless communications 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, provided that the person does not hold or support the device with any part of the person's body;

(6) A person ~~receiving using the speaker phone function of the electronic wireless messages via radio waves~~ communications device, provided that the person does not hold or support the device with any part of the person's body;

(7) A person using an electronic wireless communications device for navigation purposes, provided that the person does not do either of the following during the use: ÷

A. Manually enter letters, numbers, or symbols into the device;

B. Hold or support the device with any part of the person's body.

(8) ~~A person conducting using a feature or function of the electronic wireless interpersonal communications device with a device single touch or single swipe, provided that the person 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~~ do either of the following during the device; use:

- A. Manually enter letters, numbers, or symbols into the device;
- B. Hold or support the device with any part of the person's body.

(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;

(10) 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;

~~(10 11) A person using a handheld an electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle; or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe, provided the person does not hold or support the device with any part of the person's body;~~

(12) A person using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does not do either of the following during the use:

- (a) Manually enter letters, numbers, or symbols into the device;
- (b) Hold or support the device with any part of the person's body.

(13) A person storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.

(C)(1) On January 31 of each year, the department of public safety shall issue a report to the general assembly that specifies the number of citations issued for violations of this section during the previous calendar year.

~~(e) — Notwithstanding any provision of (2) If a law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether issues an offender a violation of subsection (a) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature division (a) of this section, and no law enforcement the officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.~~ do both of the following:

- A. Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;
- B. Ensure that such report indicates the offender's race.

(d) Whoever violates division (a) of this section is guilty of operating a motor vehicle while using an electronic wireless communication device, an unclassified misdemeanor, and shall be punished as

provided in divisions (d)(1) to (5) of this section.

(1) The offender shall be fined, and is subject to a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, as follows:

A. Except as provided in divisions (d)(1)B., C., D., and (2) of this section, the court shall impose upon the offender a fine of not more than one hundred fifty dollars.

B. If, within two years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of this section or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than two hundred fifty dollars.

C. If, within two years of the violation, the offender has been convicted of or pleaded guilty to two or more prior violations of this section or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than five hundred dollars. The court also may impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for ninety days.

D. Notwithstanding divisions (d)(1)A. to C. of this section, if the offender was operating the motor vehicle at the time of the violation in a construction zone where a sign was posted in accordance with R.C. § 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the amount imposed for the violation under division (d)(1)A., B., or C. of this section, as applicable.

(2) If the offender is in the category of offenders to whom division (d)(1)A. of this section applies, in lieu of payment of the fine of one hundred fifty dollars under division (d)(1)A. of this section and the assessment of points under division (d)(4) of this section, the offender instead may elect to attend the distracted driving safety course, as described in R.C. § 4511.991. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall not be required to pay the fine and shall not have the points assessed against that offender's driver's license if the offender submits the written evidence to the court within 90 days of the violation of division (a) of this section. However, successful completion of the course does not result in a dismissal of the charges for the violation, and the violation is a prior offense under divisions (d)(1)B. and C. of this section if the offender commits a subsequent violation or violations of division (a) of this section within two years of the offense for which the course was completed. This division does not apply with respect to any offender in the category of offenders to whom division (d)(1)B., C., or D. of this section applies.

(3) The court may impose any other penalty authorized under R.C. § 2929.21 to 2929.28. However, the court shall not impose a fine or a suspension not otherwise specified in division (d)(1) of this section. The court also shall not impose a jail term or community residential sanction.

~~(4) Except as provided in division (d) Whoever violates subsection (a) (2) of this section, points shall be assessed for a violation of (a) of this section is guilty of a minor misdemeanor in accordance with R.C. § 4510.036.~~

(5) The offense established under this section is a strict liability offense and R.C. § 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(e) A prosecution for an offense in violation of this section does not preclude a prosecution for

~~an offense in violation of R.C. § 4511.204 based on the same conduct. However, if an offender is convicted of or pleads guilty to a violation of this section and is also convicted of or pleads guilty to a violation of R.C. § 4511.204 based on the same conduct, the two offenses are allied offenses of similar import under R.C. § 2941.25.~~

(g)(1) A law enforcement officer does not have probable cause and shall not stop the operator of a motor vehicle for purposes of enforcing this section unless the officer visually observes the operator using, holding, or physically supporting with any part of the person's body the electronic wireless communications device.

(2) A law enforcement officer who stops the operator of a motor vehicle, trackless trolley, or streetcar for a violation of division (a) of this section shall inform the operator that the operator may decline a search of the operator's electronic wireless communications device. The officer shall not do any of the following:

A. Access the device without a warrant, unless the operator voluntarily and unequivocally gives consent for the officer to access the device;

B. Confiscate the device while awaiting the issuance of a warrant to access the device;

C. Obtain consent from the operator to access the device through coercion or any other improper means.

Any consent by the operator to access the device shall be voluntary and unequivocal before the officer may access the device without a warrant.

(f h) As used in this section:

(1) *Electronic wireless communications device* includes any of the following:

A. A wireless telephone;

B. A text-messaging device;

C. A personal digital assistant;

D. A computer, including a laptop computer and a computer tablet;

E. Any device capable of displaying a video, movie, broadcast television image, or visual image;

F. Any other substantially similar wireless device that is designed or used to communicate text, initiate or receive communication, or exchange information and data.

An "electronic wireless communications device" does not include a two-way radio transmitter or receiver used by a person who is licensed by the federal communications commission to participate in the amateur radio service.

(2) *Voice-operated or hands-free device feature or function* means a ~~device~~ feature or function that allows ~~the user to vocally compose or send, or to listen to a text-based communication~~ a person to use an electronic wireless communications device without the use of either hand, except to activate, deactivate, or deactivate initiate the a feature or function with a single touch or single swipe.

(3) *Write, send, or read a text-based communication Utility* means ~~to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, entity specified in R.C. § 4905.03 (A), (C), (D), (E), or (G) or reading communications referred to as text messages, instant messages, or electronic mail.~~

(4) Utility service vehicle means a vehicle owned or operated by a utility.

(R.C. § 4511.204)

State law reference—No preemption for local regulations imposing greater penalties, see R.C. § 4511.204(E)

Sec. 333.01. Driving or physical control while under the influence; evidence.

(a) (1) No person shall operate any vehicle within this municipality, if, at the time of the operation, any of the following apply:

- A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
- B. The person has a concentration of 0.08 percent or more but less than 0.17 percent by weight per unit volume of alcohol in the person's whole blood.
- C. The person has a concentration of 0.096 percent or more but less than 0.204 percent by weight per unit volume of alcohol in the person's blood serum or plasma.
- D. The person has a concentration of 0.08 percent or more but less than 0.17 grams by weight of alcohol per 210 liters of the person's breath.
- E. The person has a concentration of 0.11 grams or more but less than 0.238 grams by weight of alcohol per 100 milliliters of the person's urine.
- F. The person has a concentration of 0.17 percent or more by weight per unit volume of alcohol in the person's whole blood.
- G. The person has a concentration of 0.204 percent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
- H. The person has a concentration of 0.17 grams or more by weight of alcohol per 210 liters of the person's breath.
- I. The person has a concentration of 0.238 grams or more by weight of alcohol per 100 milliliters of the person's urine.
- J. Except as provided in subsection (k) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
 - 1. The person has a concentration of amphetamine in the person's urine of at least 500 nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
 - 2. The person has a concentration of cocaine in the person's urine of at least 150 nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole

blood or blood serum or plasma of at least 50 nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.

—————
***Cross reference**—Failure to control vehicle, see § 331.34

Cross reference—Walking on highway while under the influence, see § 371.09

State law reference—Alcohol, see R.C. Chapter 4301

State law reference—Alteration of prima facie speed limits, see R.C. §§ 4511.21, 4511.22(B) and 4511.23

State law reference—Drug of abuse, see R.C. § 3719.011(A)

3. The person has a concentration of cocaine metabolite in the person's urine of at least 150 nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.

4. The person has a concentration of heroin in the person's urine of at least 2,000 nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least 50 nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.

5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.

6. The person has a concentration of L.S.D. in the person's urine of at least 25 nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.

7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.

8. Either of the following applies:

a. The person is under the influence of alcohol, a drug of abuse, or a combination of them, and the person has a concentration of marihuana metabolite in the person's urine of at least 15 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms

of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

b. The person has a concentration of marihuana metabolite in the person's urine of at least 35 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

9. The person has a concentration of methamphetamine in the person's urine of at least 500 nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.

10. The person has a concentration of phencyclidine in the person's urine of at least 25 nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.

11. The State Board of Pharmacy has adopted a rule pursuant to R.C. § 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle, streetcar, or trackless trolley within this state, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.

(2) No person who, within 20 years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of this subsection or a substantially equivalent state law or municipal ordinance, a violation of subsections (a)(1) or (b) of this section or a substantially equivalent state law or municipal ordinance, or any other equivalent offense shall do both of the following:

A. Operate any vehicle within this municipality while under the influence of alcohol, a drug of abuse, or a combination of them;

B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under R.C. § 4511.191 or any substantially equivalent municipal ordinance, and being advised by the officer in accordance with R.C. § 4511.192 or any substantially equivalent municipal ordinance of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(b) No person under 21 years of age shall operate any vehicle within this municipality, if, at the

time of the operation, any of the following apply:

- (1) The person has a concentration of at least 0.02 percent but less than 0.08 percent by weight per unit volume of alcohol in the person's whole blood.
 - (2) The person has a concentration of at least 0.03 percent but less than 0.096 percent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - (3) The person has a concentration of at least 0.02 grams but less than 0.08 grams by weight of alcohol per 210 liters of the person's breath.
 - (4) The person has a concentration of at least 0.028 grams but less than 0.11 grams by weight of alcohol per 100 milliliters of the person's urine.
- (c) In any proceeding arising out of one incident, a person may be charged with a violation of subsections (a)(1)A. or (a)(2) and a violation of subsections (b)(1), (2), or (3) of this section, but the person may not be convicted of more than one violation of these subsections.

(d) *[Violations.]*

(1) A. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)A. of this section or for an equivalent offense that is vehicle-related, the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in R.C. § 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.

B. In any criminal prosecution for a violation of subsections (a) or (b) of this section or for an equivalent offense that is vehicle-related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this subsection regarding the admission of evidence does not extend or affect the two-hour time limit specified in R.C. § 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section. The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this subsection when a person submits to a blood test at the request of a law enforcement officer under R.C. § 4511.191 or a substantially similar municipal ordinance, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic, or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood

under this subsection may refuse to withdraw blood under this subsection, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood. The bodily substance withdrawn under this subsection (d)(1)B. shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the director pursuant to R.C. § 3701.143.

C. As used in subsection (d)(1)B. of this section, *emergency medical technician-intermediate* and *emergency medical technician-paramedic* have the same meanings as in R.C. § 4765.01.

(2) In a criminal prosecution for a violation of subsection (a) of this section or for an equivalent offense that is vehicle-related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution for a violation of subsection (b) of this section.

(3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis. If the chemical test was obtained pursuant to subsection (d)(1)B. of this section, the person tested may have a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in R.C. § 4511.191(A)(5), the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in R.C. § 4511.191(A)(5), the form to be read to the person to be tested, as required under R.C. §§ 4511.191(A) or 4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

(4) A. As used in subsections (d)(4)B. and C. of this section, *National Highway Traffic Safety Administration* means the National Highway Traffic Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C. § 105.

B. In any criminal prosecution or juvenile court proceeding for a violation of subsections (a) or (b) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite

of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:

1. The officer may testify concerning the results of the field sobriety test so administered.
 2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 3. If testimony is presented or evidence is introduced under subsections (d)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
- C. Subsection (d)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (d)(4)B. of this section.
- (e) (1) Subject to subsection (e)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsections (a)(1)B., C., D., E., F., G., H., I., or J. or (b)(1), (2), (3), or (4) of this section or for an equivalent offense that is substantially equivalent to any of those subsections, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this subsection that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this subsection shall be admitted as prima facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:
- A. The signature, under oath, of any person who performed the analysis;
 - B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;
 - C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;

D. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.

(2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (e)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.

(3) A report of the type described in subsection (e)(1) of this section shall not be prima facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

(f) (1) Except as otherwise provided in this subsection, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or R.C. § 4511.19, 4511.191 or 4511.192, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section or R.C. § 4511.19, 4511.191 or 4511.192, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this subsection also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this subsection is not available to a person who withdraws blood if the person engages in willful or wanton misconduct.

(2) As used in subsection (f)(1), *emergency medical technician-intermediate* and *emergency medical technician-paramedic* have the same meanings as in R.C. § 4765.01.

(g) (1) Whoever violates any provisions of subsections (a)(1)A. to I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under R.C. chapter 2929, except as otherwise authorized or required by subsections (g)(1)A. to E. of this section:

A. Except as otherwise provided in subsections (g)(1)B., C., D., or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of

the penalties and sanctions provided in R.C. § 4511.19(G)(1)(a)(i) to (iv).

B. Except as otherwise provided in subsection (g)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to one violation of subsections (a) ~~or (b)~~ of this section or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the penalties and sanctions provided in R.C. § 4511.19(G)(1)(b)(i) to (v).

C. Except as otherwise provided in subsection (g)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of subsections (a) ~~or (b)~~ of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the penalties and sanctions provided in R.C. § (G)(1)(c)(i) to (vi).

D. Except as otherwise provided in subsection (g)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or more violations of subsections (a) ~~or (b)~~ of this section or other equivalent offenses, ~~or an offender who, within 20 years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature,~~ or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in R.C. § 2941.1413 is guilty of a felony to be prosecuted under appropriate state law.

E. An offender who previously has been convicted of or pleaded guilty to a violation of R.C. § 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony to be prosecuted under appropriate state law.

(2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section or R.C. § 4511.19 as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in R.C. § 4511.191(F)(2).

(3) A. If an offender is sentenced to a jail term under R.C. § 4511.19(G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) and if, within 60 days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the 60-day period following the date of sentencing, the court may impose an alternative sentence as specified in R.C. § 4511.19(G)(3) that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.

B. As an alternative to the mandatory jail terms as required by R.C. § 4511.19(G)(1), the court may sentence the offender as provided in R.C. § 4511.19(G)(3).

(4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (g) of this section or R.C. § 4511.19(G) and if R.C. § 4510.13

permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If subsection (A)(7) of that section requires the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under R.C. § 4503.231, except as provided in subsection (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in R.C. § 4503.231(B).

(5) Fines imposed under this section for a violation of subsection (a) of this section shall be distributed as provided in R.C. § 4511.19(G)(5).

(6) If title to a motor vehicle that is subject to an order of criminal forfeiture under subsections (g)(1)C., D., or E. of this section is assigned or transferred and R.C. § 4503.234(B)(2) or (3) applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the National Auto Dealers Association. The proceeds of any fine so imposed shall be distributed in accordance with subsection (C)(2) of that section.

(7) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:

- A. The offender is convicted of or pleads guilty to a violation of subsection (a) of this section.
- B. The test or tests were of the offender's whole blood, blood serum or plasma, or urine.
- C. The test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine at the time of the offense.

(8) As used in subsection (g) of this section, *electronic monitoring* has the same meaning as in R.C. § 2929.01.

(h) Whoever violates subsection (b) of this section is guilty of operating a motor vehicle after underage alcohol consumption and shall be punished as follows:

(1) Except as otherwise provided in subsection (h)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. 4510.02(A)(6). The court may grant limited driving privileges relative to the suspension under R.C. §§ 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under R.C. § 4510.022. If the court grants unlimited driving privileges under R.C. § 4510.022, the court shall suspend any jail term imposed under subsection (h)(1) of this section as required under

that section.

(2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsections (a) or (b) of this section or other equivalent offense or offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a Class 4 suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. 4510.02(A)(4). The court may grant limited driving privileges relative to the suspension under R.C. §§ 4510.021 and 4510.13.

~~(3) If the offender also is convicted of or also pleads guilty to a specification of the type described in R.C. § 2941.1414 and if the court imposes a jail term for the violation of subsection (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to R.C. § 2929.24(E).~~

(i) (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under R.C. chapter 5119 by the Director of Mental Health and Addiction Services.

(2) An offender who stays in a drivers' intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

(j) If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section or R.C. § 4511.19 files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

(k) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:

(1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(l) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of R.C. § 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(m) All terms defined in R.C. § 4510.01 apply to this section. If the meaning of a term defined in R.C. § 4510.01 conflicts with the meaning of the same term as defined in R.C. § 4501.01 or 4511.01, the term as defined in R.C. § 4510.01 applies to this section.

(n) As used in this section and section 333.022:

Community residential sanction, continuous alcohol monitoring, jail, mandatory prison term, mandatory term of local incarceration, prison term, and sanction have the same meanings as in R.C. § 2929.01.

Drug of abuse has the same meaning as in R.C. § 4506.01.

Equivalent offense means any of the following:

- (1) A violation of R.C. § 4511.19(A) ~~or (B)~~;
- (2) A violation of a municipal OVI ordinance;
- (3) A violation of R.C. § 2903.04 in a case in which the offender was subject to the sanctions described in subsection (D) of that section;
- (4) A violation of R.C. § 2903.06(A)(1) or R.C. § 2903.08 or a municipal ordinance that is substantially equivalent to either of those subsections;
- (5) A violation of R.C. § 2903.06(A)(2), (A)(3), or (A)(4), R.C. § 2903.08(A)(2), or former R.C. § 2903.07, or a municipal ordinance that is substantially equivalent to any of those subsections or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
- (6) A violation of R.C. § 1547.11(A) ~~or (B)~~;
- (7) A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane, or similar device on the waters of this state while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane, or similar device on the waters of this state with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine;
- (8) A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to R.C. § 4511.19(A) ~~or (B)~~ or R.C. § 1547.11(A) ~~or (B)~~;
- (9) A violation of a former law of this state that was substantially equivalent to R.C. § 4511.19(A) ~~or (B)~~ or R.C. § 1547.11(A) ~~or (B)~~.

Equivalent offense that is vehicle-related means an equivalent offense that is any of the following:

- (1) A violation described in subsections A., B., C., D., or E. of the definition for "equivalent offense" provided in this subsection (n);

(2) A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to R.C. § 4511.19(A) ~~or (B)~~;

(3) A violation of a former law of this state that was substantially equivalent to R.C. § 4511.19(A) ~~or (B)~~.

Mandatory jail term means the mandatory term in jail of three, six, ten, 20, 30, or 60 days that must be imposed under R.C. § 4511.19(G)(1)(a), (G)(1)(b), or (G)(1)(c) upon an offender convicted of a violation of subsection (A) of that section and in relation to which all of the following apply:

(1) Except as specifically authorized under R.C. § 4511.19, the term must be served in a jail.

(2) Except as specifically authorized under R.C. § 4511.19, the term cannot be suspended, reduced, or otherwise modified pursuant to R.C. §§ 2929.21 through 2929.28 or any other provision of the Ohio Revised Code.

Municipal OVI ordinance and *municipal OVI offense* mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(R.C. § 4511.19(A)—(M); R.C. § 4511.181; '64 Code, § 333.01; Ord. 3103, passed 9-4-90; Am. Ord. 4031, passed 6-17-03)

State law reference—Trial judge to suspend or revoke driver's license, see R.C. § 4507.16

State law references—Mandatory suspension periods; immobilizing or disabling device; restricted license, see R.C. § 4510.13

Cross reference—Penalty, see § 333.99

Sec. 333.021. Operation in willful or wanton disregard of safety.

(a) No person shall operate a vehicle on any street or highway in willful or wanton disregard of the safety of persons or property.

(b) (1) No person shall operate a vehicle on any public or private property other than streets or highways, in willful or wanton disregard of the safety of persons or property.

(2) This section does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree.

~~(d) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded~~

~~guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.~~

(R.C. § 4511.20; R.C. § 4511.201; '64 Code, § 333.021; Ord. 2651, passed 3-15-83)

Editor's note—Subsection (c) has been adopted pursuant to municipal request in conjunction with the 2003 supplement. This subsection is no longer based on R.C. §§ 4511.20 or 4511.201.

Cross reference—Penalty, see § 333.99

Sec. 333.03. Maximum speed limits; assured clear distance ahead.

333.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD

(a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper; having due regard for the traffic, surface, and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit him or her to bring it to a stop within the assured clear distance ahead.

(b) It is prima facie lawful, in the absence of a lower limit declared or established pursuant to this section by the Director of Transportation or local authorities, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

- (1) A. Twenty (20) miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when twenty (20) miles per hour school speed limit signs are erected, except that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by division (b)(4) of this section, and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by divisions (b)(9) and (10) of this section. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the *Manual and Specifications for a Uniform System of Traffic-Control Devices* shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect,

B. As used in this section, ***SCHOOL*** means any school chartered under R.C. §3301.16 and any nonchartered school that during the preceding year filed with the Department of Education and Workforce in compliance with O.A.C. §3301-35-08, a copy of the school's report for the parents of the school's pupils certifying that the school meets state minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone. ***SCHOOL*** also includes a special elementary school that in writing requests the County Engineer to create a school zone at the location of the school. Upon receipt of such written request, the County Engineer shall create a school zone at that location by erecting appropriate signs.

C. As used in this section, ***SCHOOL ZONE*** means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway, and also includes that portion of a state highway. Upon request from local authorities for streets and highways under their jurisdiction and that portion of a state highway under the jurisdiction of the Director of Transportation or a request from a County Engineer in the case of a school zone for a special elementary school, the Director may extend the traditional school zone boundaries. The distances in divisions (b)(1) C.1. through 3. below shall not exceed three hundred (300) feet per approach per direction, and are bounded by whichever of the following distances or combination thereof the Director approves as most appropriate:

1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of three hundred (300) feet on each approach direction;
2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of three hundred (300) feet on each approach direction;
3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of three hundred (300) feet on each approach direction of the highway.

- D. Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in divisions (b)(1)A. and (b)(1)C. of this section.
- E. As used in this division, **CROSSWALK** has the meaning given that term in division (2) of its definition in Chapter 301.
- F. The Director may, upon request by resolution of the Legislative Authority and upon submission by the municipality of such engineering, traffic, and other information as the Director considers necessary, designate a school zone on any portion of a state route lying within the municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of a crosswalk is no more than one thousand three hundred twenty (1,320) feet. Such a school zone shall include the distance encompassed by the crosswalk and extending three hundred (300) feet in each appropriate direction of the state route.
- G. As used in this section, **SPECIAL ELEMENTARY SCHOOL** means a school that meets all of the following:
1. It is not chartered and does not receive tax revenue from any source.
 2. It does not educate children beyond the eighth grade.
 3. It is located outside the limits of a municipal corporation.
 4. A majority of the total number of students enrolled at the school are not related by blood.
 5. The principal or other person in charge of the special elementary school annually sends a report to the superintendent of the school district in which the special elementary school is located indicating the total number of students enrolled at the school, but otherwise the principal or other person in charge does not report any other information or data to the superintendent.
- (2) Twenty-five (25) miles per hour in all other portions of the municipality, except on state routes outside business districts, through ~~highways~~ streets outside business districts, and alleys;

(3) Thirty-five (35) miles per hour on all state routes or through highways streets within the municipality outside business districts, except as provided in divisions (b)(4) and (5) of this section;

(4) Forty-five (45) miles per hour on that portion of State Route 82 east of Interstate 77 to the business district of the municipality.

~~(5) Fifty (50) miles per hour on state routes within the municipality outside urban districts unless a lower prima facie speed is established as further provided in this section;~~

~~(6) (5) Fifteen (15) miles per hour on all alleys within the municipality;~~

(6) Sixty (60) miles per hour on Interstate 77 within the municipality

~~(7) — Sixty miles (60) per hour on two-lane state routes outside municipal corporations as established by the Director under R.C. §4511.21(H)(2);~~

~~(8) — Fifty-five (55) miles per hour at all times on freeways with paved shoulders inside the municipality, other than freeways as provided in R.C. §4511.21(B)(14) and (B)(16);~~

~~(9) — Sixty (60) miles per hour for operators of any motor vehicle at all times on all portions of rural divided highways; and~~

~~(10) — Fifty-five (55) miles per hour for operators of any motor vehicle at all times on all portions of freeways in congested areas as determined by the Director and that are part of the interstate system and are located within a municipal corporation or within an interstate freeway outerbelt.~~

(c) It is prima facie unlawful for any person to exceed any of the speed limitations in division (b), and its subsections, of this section or any declared or established pursuant to this section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations in division (d) of this section. No person shall be convicted of more than one (1) violation of this section for the same conduct, although violations of more than one (1) provision of this section may be charged in the alternative in a single affidavit.

(d) No person shall operate a motor vehicle upon a street or highway as follows:

(1) At a speed exceeding sixty (60) miles per hour, ~~except upon a two-lane state route as provided in division (b)(7) of this section and upon a highway, expressway or freeway as provided in divisions (b)(8) and (b)(10) of this section~~ upon Interstate 77;

~~(2) At a speed exceeding sixty (60) miles per hour upon a two-lane state route as provided in division (b)(7) of this section and upon a highway as provided in division (b)(9) of this section;~~

~~(3)~~ (2) At a speed exceeding the posted speed limit upon a highway, ~~expressway or freeway~~ for which the Director has determined and declared a speed limit pursuant to R.C. §4511.21(1)(2) or (L)(2).

(e) Pursuant to R.C. §4511.21(E), in every charge of violating this section, the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon division (c) of this section also the speed which division (b), and its subsections, or a limit declared or established pursuant to, this section or R.C. §4511.21 declares is prima facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to stop within the assured clear distance ahead, the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.

(f) Pursuant to R.C. §4511.21(F), when a speed in excess of both a prima-facie limitation and a limitation in division (d) of this section is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both division (b), or its subsections, of this section, or of a limit declared or established pursuant to this section or R.C. §4511.21 by the Director or local authorities, and of the limitation in division (d) of this section. If the court finds a violation of division (b), or its subsections, or a limit declared or established pursuant to, this section or R.C. §4511.21 has occurred, it shall enter a judgment of conviction under such division and dismiss the charge under division (d) of this section. If it finds no violation of division (b), or its subsections, or a limit declared or established pursuant to, this section or R.C. §4511.21, it shall then consider whether the evidence supports a conviction under division (d) of this section.

(g) Pursuant to R.C. §4511.21(G), points shall be assessed for a violation of a limitation under division (d) of this section in accordance with R. C. §4510.036. (R.C. §4511.21(A) - (G))

(h) Whenever, in accordance with R.C. §4511.21(H) through {N), the maximum prima facie speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima facie unlawful for any person to exceed the speed limits posted upon such signs.

~~(i) As used in this section:~~

~~—**INTERSTATE SYSTEM** has the same meaning as in 23 USC 101.~~

~~—**COMMERCIAL BUS** means a motor vehicle designed for carrying more than nine (9) passengers and used for the transportation of persons for compensation.~~

~~—**NONCOMMERCIAL BUS** includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.~~

~~—**OUTERBELT**. A portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.~~

~~—**RURAL**. Outside urbanized areas, as designated in accordance with 23 U.S.C. §101, and outside of a business or urban district.~~

~~(j)(i)~~ (1) A violation of any provision of divisions (a) through ~~(j)(h)~~ of this section is one (1) of the following:

- A. Except as otherwise provided in divisions ~~(j)(i)~~(1)B., C., (2), and (3) of this section, a minor misdemeanor;
- B. If, within one (1) year of the offense, the offender previously has been convicted of or pleaded guilty to two (2) violations of any provision of divisions (a) through ~~(j)(h)~~ of this section, R.C. §4511.21, or any provision of any other municipal ordinance that is substantially similar to any provision of that section, a misdemeanor of the fourth degree;
- C. If, within one (1) year of the offense, the offender previously has been convicted of or pleaded guilty to three (3) or more violations of any provision of divisions (a) through ~~(j)(h)~~ of this section, R.C. §4511.21, or any provision of any other municipal

ordinance that is substantially similar to any provision of that section, or exceeded any posted speed limit by thirty (30) miles per hour or greater, a misdemeanor of the third degree.

(2) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of division (a) through (i)(~~h~~) of this section, R.C. §4511.21, or any other municipal ordinance that is substantially similar to any provision of that section, and operated a motor vehicle faster than thirty-five (35) miles an hour in a business district of the municipality, ~~faster than fifty (50) miles an hour in other portions of the municipality~~, or exceeded any other posted speed limit by twenty (20) miles per hour or greater, subject to (i)(1)(c) above, or faster than thirty-five (35) miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree,

(3) Notwithstanding division ~~(j)~~(~~i~~)(l) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with R.C. §4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two (2) times the usual amount imposed for the violation. No court shall impose a fine of two (2) times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this division and if the court determines that the offender is an indigent person and unable to pay the fine.

(4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under subsection 303.99(b).

~~(a) — No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard for the traffic, surface, and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit him or her to bring it to a stop within the assured clear distance ahead.~~

~~(b) — It is prima facie lawful, in the absence of a lower limit declared or established pursuant to this section by the Director of Transportation or local authorities, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:~~

~~(1) — A. 20 miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when 20 miles per hour school speed limit signs are erected, except that on controlled access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(4) of~~

~~this section, and on freeways, if the right of way line fence has been erected without pedestrian opening, the speed shall be governed by subsections (b)(9) and (10) of this section. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the Manual and Specifications for a Uniform System of Traffic Control Devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect.~~

~~B. As used in this section, *school* means all of the following:~~

- ~~1. Any school chartered under R.C. § 3301.16;~~
- ~~2. Any nonchartered school that during the preceding year filed with the Department of Education and Workforce in compliance with O.A.C. § 3301-35-08, a copy of the school's report for the parents of the school's pupils certifying that the school meets state minimum standards for nonchartered, nontax supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone;~~
- ~~3. Any special elementary school that in writing requests the County Engineer to create a school zone at the location of the school. Upon receipt of such written request, the County Engineer shall create a school zone at that location by erecting appropriate signs;~~
- ~~4. Any preschool education program operated by an educational service center that is located on a street or highway with a speed limit of 45 miles per hour or more, when the educational service center in writing requests that the County Engineer create a school zone at the location of that program. Upon receipt of such a written request, the County Engineer shall create a school zone at that location by erecting the appropriate signs.~~

~~C. As used in this section, *school zone* means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway, and also includes that portion of a state highway. Upon request from local authorities for streets and highways under their jurisdiction and that portion of a state highway under the jurisdiction of the Director of Transportation or a request from a County Engineer in the case of a school zone for a special elementary school, the director may extend the traditional school zone boundaries. The distances in subsections (b)(1)C.1. through 3. below shall not exceed 300 feet per approach per direction, and are bounded by whichever of the following distances or combination thereof the director approves as most appropriate:~~

- ~~1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;~~
- ~~2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;~~
- ~~3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of the highway.~~

~~D. ————— Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in subsections (b)(1)A. and (b)(1)C. of this section.~~

~~E. ————— As used in this subsection, *crosswalk* has the meaning given that term in subsection (2) of its definition in chapter 301.~~

~~F. ————— The director may, upon request by resolution of the Legislative Authority and upon submission by the municipality of such engineering, traffic, and other information as the director considers necessary, designate a school zone on any portion of a state route lying within the municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of a crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet in each appropriate direction of the state route.~~

~~G. ————— As used in this section, *special elementary school* means a school that meets all of the following:~~

- ~~1. ————— It is not chartered and does not receive tax revenue from any source.~~
- ~~2. ————— It does not educate children beyond the eighth grade.~~
- ~~3. ————— It is located outside the limits of a municipal corporation.~~
- ~~4. ————— A majority of the total number of students enrolled at the school are not related by blood.~~
- ~~5. ————— The principal or other person in charge of the special elementary school annually sends a report to the superintendent of the School District in which the special elementary school is located indicating the total number of students enrolled at the school, but otherwise the principal or other person in charge does not report any other information or data to the superintendent.~~

~~(2) — 25 miles per hour in all other portions of the municipality, except on state routes outside Business Districts, through highways outside Business Districts, and alleys;~~

~~(3) — Thirty five miles per hour on all state routes or through highways within the municipality outside Business Districts, except as provided in subsections (b)(4) and (5) of this section;~~

~~(4) — Forty five miles per hour on that portion of State Route 82 east of Interstate 77 to the Business District of the municipality, except as provided in divisions R.C. § 4511.21(B)(12), (13), (14), (15), and (16) of this section;~~

~~(5) — Fifty miles per hour on state routes within the municipality outside Urban Districts unless a~~

~~lower prima facie speed is established as further provided in this section;~~

~~(6) — Fifteen miles per hour on all alleys within the municipality;~~

~~(7) — Sixty miles per hour on two-lane state routes outside municipal corporations as established by the director under R.C. § 4511.21(H)(2);~~

~~(8) — Fifty-five miles per hour at all times on freeways with paved shoulders inside the municipality, other than freeways as provided in R.C. § 4511.21(B)(14) and (B)(16);~~

~~(9) — Sixty miles per hour on rural expressways with traffic control signals on all portions of rural divided highways, except as provided by R.C. § 4511.21(B)(13) and (14) for operators of any motor vehicle at all times on all portions of rural divided highways; and~~

~~(10) — Fifty-five miles per hour for operators of any motor vehicle at all times on all portions of freeways or expressways in congested areas as determined by the director and that are part of the interstate system and are located within a municipal corporation or within an interstate freeway outerbelt except as provided in R.C. § 4511.21(B)(16).~~

~~(e) — It is prima facie unlawful for any person to exceed any of the speed limitations in subsection (b), and its subsections, of this section or any declared or established pursuant to this section by the director or local authorities and it is unlawful for any person to exceed any of the speed limitations in subsection (d) of this section. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.~~

~~(d) — No person shall operate a motor vehicle upon a street or highway as follows:~~

~~(1) — At a speed exceeding 60 miles per hour, except upon a two-lane state route as provided in subsection (b)(7) of this section and upon a highway, expressway or freeway as provided in subsections (b)(8) and (b)(10) of this section;~~

~~(2) — At a speed exceeding 60 miles per hour upon a two-lane state route as provided in subsection (b)(7) of this section and upon a highway as provided in subsection (b)(9) of this section;~~

~~(3) — At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the director has determined and declared a speed limit pursuant to R.C. § 4511.21(I)(2) or (L)(2).~~

~~(e) — Pursuant to R.C. § 4511.21(E), in every charge of violating this section, the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (e) of this section also the speed which subsection (b), and its subsections, or a limit declared or established pursuant to, this section or R.C. § 4511.21 declares is prima facie lawful at the time and place of such alleged violation, except that in affidavits where a~~

~~person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to stop within the assured clear distance ahead, the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.~~

~~(f) — Pursuant to R.C. § 4511.21(F), when a speed in excess of both a prima facie limitation and a limitation in subsection (d) of this section is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsection (b), or its subsections, of this section, or of a limit declared or established pursuant to this section or R.C. § 4511.21 by the Director or local authorities, and of the limitation in subsection (d) of this section. If the court finds a violation of subsection (b), or its subsections, or a limit declared or established pursuant to, this section or R.C. § 4511.21 has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) of this section. If it finds no violation of subsection (b), or its subsections, or a limit declared or established pursuant to, this section or R.C. § 4511.21, it shall then consider whether the evidence supports a conviction under subsection (d) of this section.~~

~~(g) — Pursuant to R.C. § 4511.21(G), points shall be assessed for a violation of a limitation under subsection (d) of this section in accordance with R.C. § 4510.036.~~

~~(h) — Whenever, in accordance with R.C. § 4511.21(H) through (N), the maximum prima facie speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima facie unlawful for any person to exceed the speed limits posted upon such signs.~~

~~(i) — As used in this section:~~

~~*Interstate system* has the same meaning as in 23 USC 101.~~

~~*Commercial bus* means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.~~

~~*Noncommercial bus* includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.~~

~~*Outerbelt* means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.~~

~~*Rural* means an area outside urbanized areas, as designated in accordance with 23 U.S.C. § 101, and outside of a business or Urban District, and areas that extend within urbanized areas where the~~

~~roadway characteristics remain mostly unchanged from those outside the urbanized areas.~~

~~Urbanized area has the same meaning as in 23 U.S.C. 101.~~

~~Divided means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.~~

~~(j) — (1) A violation of any provision of subsections (a) through (i) of this section is one of the following:~~

~~A. — Except as otherwise provided in subsections (j)(1)B., C., (2), and (3) of this section, a minor misdemeanor;~~

~~B. — If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of subsections (a) through (i) of this section, R.C. § 4511.21, or any provision of any other municipal ordinance that is substantially similar to any provision of that section, a misdemeanor of the fourth degree;~~

~~C. — If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of subsections (a) through (i) of this section, R.C. § 4511.21, or any provision of any other municipal ordinance that is substantially similar to any provision of that section, a misdemeanor of the third degree.~~

~~(2) — If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of subsections (a) through (i) of this section, R.C. § 4511.21, or any other municipal ordinance that is substantially similar to any provision of that section, and operated a motor vehicle faster than 35 miles an hour in a Business District of the municipality, faster than 50 miles an hour in other portions of the municipality, or faster than 35 miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree. Division (j)(2) of this section does not apply if penalties may be imposed under division (j)(1)B. or C. of this section.~~

~~(3) — Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with R.C. § 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.~~

~~(4) — If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under subsection 303.99(b).~~

(R.C. § 4511.21(A)—(G); R.C. § 4511.21(O), (P); '64 Code, § 333.03; Am. Ord. 3520, passed 8-6-96; Ord. 4982, passed 3-1-16)

State law reference—Charging of violation, affidavit and warrant, points, see R.C. § 4511.21(E)—(G)

State law reference—Arrest pending warrant when radar, electrical or mechanical timing device used to determine violation of this section, see R.C. § 4511.091

State law reference—Alteration of speed limits with approval of Director, see R.C. § 4511.21(H)—(N)

Cross reference—Penalty, see § 333.99

Sec. 335.15. Removal of vehicles after accidents.

(a) If a motor vehicle accident occurs on any highway, public street, or other property open to the public for purposes of vehicular travel and if any motor vehicle, cargo, or personal property that has been damaged or spilled as a result of the motor vehicle accident is blocking the highway, street, or other property or is otherwise endangering public safety, a public safety official may do either of the following without the consent of the owner but with the approval of the law enforcement agency conducting any investigation of the accident:

(1) Remove, or order the removal of, the motor vehicle if the motor vehicle is unoccupied, cargo, or personal property from the portion of the highway, public street, or property ordinarily used for vehicular travel on the highway, public street, or other property open to the public for purposes of vehicular travel.

(2) If the motor vehicle is a commercial motor vehicle, allow the owner or operator of the vehicle the opportunity to arrange for the removal of the motor vehicle within a period of time specified by the public safety official. If the public safety official determines that the motor vehicle cannot be removed within the specified period of time, the public safety official shall remove or order the removal of the motor vehicle.

(b) (1) Except as provided in subsection (b)(2) of this section, the Department of Transportation, any employee of the Department of Transportation, or a public safety official who authorizes or participates in the removal of any unoccupied motor vehicle, cargo, or personal property as authorized by subsection (a) of this section, regardless of whether the removal is executed by a private towing service, is not liable for civil damages for any injury, death, or loss to person or property that results from the removal of that unoccupied motor vehicle, cargo, or personal property. Further, except as provided in subsection (b)(2) of this section, if a public safety official authorizes, employs, or arranges to have a private towing service remove any unoccupied motor vehicle, cargo, or personal property as authorized by subsection (a) of this section, that private towing service is not liable for civil damages for any injury, death, or loss to person or property that results from the removal of that unoccupied motor vehicle, cargo, or personal property.

(2) Subsection (b)(1) of this section does not apply to any of the following:

A. Any person or entity involved in the removal of an unoccupied motor vehicle, cargo,

or personal property pursuant to subsection (a) of this section if that removal causes or contributes to the release of a hazardous material or to structural damage to the roadway;

B. A private towing service that was not authorized, employed, or arranged by a public safety official to remove an unoccupied motor vehicle, cargo, or personal property under this section;

C. Except as provided in subsection (b)(2)D. of this section, a private towing service that was authorized, employed, or arranged by a public safety official to perform the removal of the unoccupied motor vehicle, cargo, or personal property but the private towing service performed the removal in a negligent manner;

D. A private towing service that was authorized, employed, or arranged by a public safety official to perform the removal of the unoccupied motor vehicle, cargo, or personal property that was endangering public safety but the private towing service performed the removal in a reckless manner.

(c) As used in subsections (a) and (b) of this section:

Hazardous material has the same meaning as in R.C. § 2305.232.

Public safety official means any of the following:

A. The Sheriff of the county, or the Chief of ~~Police~~ law enforcement agency in the municipal corporation, township, or township, port authority, conservancy district, or Joint Police District, in which the accident occurred;

B. A State Highway Patrol Trooper;

C. The Chief of the Fire Department having jurisdiction where the accident occurred;

D. A duly authorized subordinate acting on behalf of an official specified in subsections A. to C. of this definition.

(d) If a towing service is removing a motor vehicle, and the removal was not authorized under R.C. § 4513.60, 4513.601, 4513.61, or 4513.66, or any substantially equivalent municipal ordinance, prior to removing the motor vehicle, the towing service shall provide a written estimate of the price for the removal to the operator of the motor vehicle, if requested.

(e) The towing service shall ensure that any estimate provided under subsection (d) of this section includes the fees, services to be rendered, and destination of the vehicle.

(f) If a towing service fails to provide a written estimate as required by this section, the towing service shall not charge fees for the towing and storage of the motor vehicle that exceed 25 percent of any applicable fees established by the Public Utilities Commission in rules adopted under R.C. § 4921.25(B)(4) or, if the vehicle was towed within a municipal corporation that has established vehicle removal and storage fees, 25 percent of the fees established by the municipal corporation.

(g) Any storage facility that accepts towed vehicles shall conspicuously post a notice at the entrance to the storage facility that states the limitation on fees established under subsection (c) of

this section. (R.C. § 4513.66; R.C. § 4513.68)

Sec. 337.01. Driving unsafe vehicles.

(a) No person shall drive or move, or cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person.

(b) **Except as otherwise provided in this subsection, whoever** violates this section is guilty of a minor misdemeanor. **If the offender previously has been convicted of a violation of this section or R.C. § 4513.02(A), whoever violates this section is guilty of a misdemeanor of the third degree.** (R.C. § 4513.02(A), (H)); '64 Code, § 337.01)

Cross reference—Penalty, see § 337.99

Sec. 337.02. Lighted lights; measurement of distances and heights.

(a) Every vehicle, other than a motorized bicycle, operated upon a street or highway within this state shall display lighted lights and illuminating devices as required by R.C. §§ 4513.04 to 4513.37 during all of the following times:

(1) The time from sunset to sunrise;

(2) At any other time when, due to insufficient natural light or unfavorable atmospheric conditions, persons, vehicles, and substantial objects on the highway are not discernible at a distance of 1,000 feet ahead;

(3) At any time when the windshield wipers of the vehicle are in use because of precipitation on the windshield.

(b) Every motorized bicycle shall display at such times lighted lights meeting the rules adopted by the Ohio Director of Public Safety under R.C. § 4511.521. No motor vehicle, during any time specified in this section, shall be operated upon a street or highway within this state using only parking lights as illumination.

(c) Whenever in such sections a requirement is declared as to the distance from which certain lamps and devices shall render objects visible, or within which such lamps or devices shall be visible, such distance shall be measured upon a straight level unlighted highway under normal atmospheric conditions unless a different condition is expressly stated.

***Cross reference**—Bicycle equipment, see §§ 373.05 et seq.

Cross reference—Motorized bicycle lights and equipment, see § 373.10

Cross reference—Towing requirements, see § 339.07

Cross reference—Use of stop and turn signals, see § 331.14 **Cross**

reference—Use of studded tires and chains, see § 339.11 **Cross**

reference—Vehicles transporting explosives, see § 339.06

Cross reference—Wheel protectors, commercial vehicles, see § 339.05

State law reference—Slow-moving vehicle emblem, regulations, see OAC Chapter 4501:13

State law reference—Vehicle lighting, see OAC Chapter 4501:15

State law reference—Warning devices for commercial vehicles disabled upon freeways, see R.C. § 4513.28

(d) Whenever in such sections a requirement is declared as to the mounted height of lights or devices, it shall mean from the center of such light or device to the level ground upon which the vehicle stands.

(e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause the operator of a vehicle being operated upon a street or highway within this state to stop the vehicle solely because the officer observes that a violation of subsection (a)(3) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that subsection, or causing the arrest of or commencing a prosecution of a person for a violation of that subsection.

(f) Whoever violates this section is guilty of a minor misdemeanor.

(g) Whoever violates this section is guilty of a minor misdemeanor ~~on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.~~

(R.C. § 4513.03; R.C. § 4513.99; '64 Code, § 337.02)

Cross reference—Penalty, see § 337.99

Sec. 337.16. Number of lights; limitations on flashing, oscillating or rotating lights.

(a) Whenever a motor vehicle equipped with headlights is also equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than 300 candlepower, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.

(b) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights, or auxiliary driving lights, which projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing.

(2) The prohibition in subsection (c)(1) of this section does not apply to any of the following:

A. Emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash, or recyclable materials on the roadside, rural mail delivery vehicles, vehicles as provided in R.C. § 4513.182, highway maintenance vehicles, and similar equipment operated by state or local authorities, provided such vehicles are equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating amber light;

B. Vehicles or machinery permitted by R.C. § 4513.111 to have a flashing red light;

C. Farm machinery and vehicles escorting farm machinery, provided such machinery and vehicles are equipped with and display, when used on a street or highway, a flashing, oscillating, or rotating amber light. Farm machinery also may display the lights described in R.C. § 4513.111.

D. A funeral hearse or funeral escort vehicle, provided that the funeral hearse or funeral escort vehicle is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating purple or amber light.

E. A vehicle being used for emergency preparedness, response, and recovery activities, as those terms are defined in R.C. § 5502.21, that is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating amber or red and white light, provided that the vehicle is being operated by a person from one of the following and the vehicle is clearly marked with the applicable agency's or authority's insignia:

(i) The Ohio emergency management agency;

(ii) A countywide emergency management agency established under R.C. § 5502.26;

(iii) A regional authority for emergency management established under R.C. § 5502.27;

(iv) A program for emergency management established under R.C. § 5502.271.

(3) Subsection (c)(1) of this section does not apply to animal-drawn vehicles subject to R.C. § 4513.114.

(d) (1) Except a person operating a public safety vehicle, as defined in R.C. § 4511.01(E), or a school bus, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light.

(2) Except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, operating a public safety vehicle when on duty, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

(e) This section does prohibit the use of warning lights required by law or the simultaneous flashing

of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights either on farm machinery or vehicles escorting farm machinery, when used on a street or highway.

(f) (1) Notwithstanding any other provision of law, a motor vehicle operated by a coroner, deputy coroner or coroner's investigator may be equipped with a flashing, oscillating or rotating red or blue light and siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet. Such a vehicle may display the flashing, oscillating or rotating red or blue light and may give the audible signal of the siren, whistle or bell only when responding to a fatality or a fatal motor vehicle accident on a street or highway and only at those locations where the stoppage of traffic impedes the ability of the coroner, deputy coroner or coroner's investigator to arrive at the site of the fatality.

(2) This subsection (f) does not relieve the coroner, deputy coroner or coroner's investigator operating a motor vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(g) Whoever violates this section is guilty of a minor misdemeanor.

(R.C. § 4513.17; R.C. §§ 4513.17(F), 4513.171(B); R.C. § 4513.171; '64 Code, § 337.16)

Cross reference—Penalty, see § 337.99

Sec. 337.18. Motor vehicle and motorcycle brakes.

(a) The following requirements govern as to brake equipment on vehicles:

(1) Every motor vehicle, other than a motorcycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the motor vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, then on such motor vehicles, manufactured or assembled after January 1, 1942, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

(2) Every motorcycle, when operated upon a highway shall be equipped with at least one adequate brake, which may be operated by hand or by foot.

(3) Every motorized bicycle shall be equipped with brakes meeting the rules adopted by the Director of Public Safety under R.C. § 4511.521.

(4) When operated upon the highways of this state, the following vehicles shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle, designed to be applied by the driver of the towing motor vehicle from its cab, and also designed and connected so that, in case of a breakaway of the towed vehicle, the brakes shall be automatically applied:

A. Except as otherwise provided in this section, every trailer or semitrailer, except a pole trailer, with an empty weight of 2,000 pounds or more, manufactured or assembled on or after January 1, 1942;

B. Every manufactured home or travel trailer with an empty weight of 2,000 pounds or more, manufactured or assembled on or after January 1, 2001.

(5) Every watercraft trailer with a gross weight or manufacturer's gross vehicle weight rating of 3,000 pounds or more that is manufactured or assembled on or after January 1, 2008, shall have separate brakes equipped with hydraulic surge or electrically operated brakes on two wheels.

(6) In any combination of motor-drawn trailers or semitrailers equipped with brakes, means shall be provided for applying the rearmost brakes in approximate synchronism with the brakes on the towing vehicle, and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost brakes; or both of the above means, capable of being used alternatively, may be employed.

(7) Every vehicle and combination of vehicles, except motorcycles and motorized bicycles, and except trailers and semitrailers of a gross weight of less than 2,000 pounds, and pole trailers, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice, or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind.

(8) The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(9) Every motor vehicle, or combination of motor-drawn vehicles shall be capable at all times and under all conditions of loading of being stopped on a dry, smooth, level road free from loose material, upon application of the service or foot brake, within the following specified distances, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

A. Vehicles, or combinations of vehicles having brakes on all wheels shall come to a stop in 30 feet or less from a speed of 20 miles per hour.

B. Vehicles or combinations of vehicles not having brakes on all wheels shall come to a stop

in 40 feet or less from a speed of 20 miles per hour.

(10) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

(b) Whoever violates this section is guilty of a minor misdemeanor ~~on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.~~

(R.C. § 4513.20; R.C. § 4513.99; '64 Code, § 337.18)

Cross reference—Penalty, see § 337.99

Sec. 337.20. Muffler; muffler cutout; excessive smoke, gas or noise.

(a) (1) Every motor vehicle and motorcycle with an internal combustion engine shall at all times be equipped with a muffler which is in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, bypass or similar device upon a motor vehicle on a highway. Every motorcycle muffler shall be equipped with baffle plates.

(2) No person shall own, operate or have in the person's possession any motor vehicle or motorcycle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle, or equipped in any way to produce or emit smoke or dangerous or annoying gases from any portion of such vehicle, other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation.

(3) No person shall own, operate or have in his possession any motor vehicle, equipped with a muffler from which the baffle plates, screens or other original internal parts have been removed and not replaced, or equipped with an exhaust system or muffler which is defective, inadequate or improperly maintained, or which has been modified in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle.

(b) Whoever violates this section is guilty of a minor misdemeanor ~~on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.~~

(R.C. § 4513.22; '64 Code, § 337.20)

Cross reference—Penalty, see § 337.99

Sec. 337.26. Child restraint system usage; exceptions, dismissal and penalty.

(a) When any child who in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in chapter 301 and R.C. § 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time

of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:

(1) A child less than four years of age;

(2) A child who weighs less than 40 pounds.

(b) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased, or otherwise under the control of a nursery school, or ~~day~~ child care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:

(1) A child less than four years of age;

(2) A child who weighs less than 40 pounds.

(c) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by subsections (a) or (b) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in R.C. § 4511.01 or a vehicle that is regulated under R.C. § 5104.015, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.

(d) When any child who is at least eight years of age but not older than 15 years of age, and who is not otherwise required by subsections (a), (b), or (c) of this section to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in R.C. § 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in R.C. § 4513.263.

(e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsections (c) or (d) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of subsections (c) or (d) of this section or causing the arrest of or commencing a prosecution of a person for a violation of subsections (c) or (d) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of subsections

(c) or (d) of this section has been or is being committed.

(f) The Director of Public Safety shall adopt such rules as are necessary to carry out this section.

(g) The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat, or an occupant restraining device as required in this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.

(h) This section does not apply when an emergency exists that threatens the life of any person operating occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this state under R.C. Chapter 4731 or a chiropractor licensed to practice in this state under R.C. chapter 4734 that states that the child who otherwise would be required to be restrained under this section has a physical impairment that makes use of a child restraint system, booster seat, or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician or chiropractor as noted on the affidavit.

(i) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation, or summons issued for violating this section.

(j) (1) Whoever violates subsections (a), (b), (c), or (d) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than one child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:

A. Except as otherwise provided in subsection (j)(1)B. of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than \$25.00 nor more than \$75.00.

B. If the offender previously has been convicted of or pleaded guilty to a violation of subsections (a), (b), (c), or (d) of this section or of a state law or municipal ordinance that is substantially equivalent any of those subsections, the offender is guilty of a misdemeanor of the fourth degree.

(2) All fines imposed pursuant to subsection (j)(1) of this section shall be forwarded to the State Treasurer for deposit in the Child Highway Safety Fund created by R.C. § 4511.81(I).

(R.C. § 4511.81(A)—(H), (K), (L); '64 Code, § 337.26; Ord. 3360, passed 7-19-94)

Cross reference—Penalty, see § 337.99

Sec. 339.01. Special permits for vehicles.

(a) (1) The municipality, with respect to highways under their jurisdiction, upon application in writing, shall issue a special regional heavy hauling permit authorizing the applicant to operate or move a vehicle or combination of vehicles as follows:

A. At a size or weight of vehicle or load exceeding the maximum specified in R.C. §§ 5577.01 to 5577.09, or otherwise not in conformity with R.C. §§ 4513.01 to 4513.37.

B. Upon any highway under the jurisdiction of municipality except those highways with a condition insufficient to bear the weight of the vehicle or combination of vehicles as stated in the application.

C. Issuance of a special regional heavy hauling permit is subject to the payment of a fee established by the municipality in accordance with this section.

(2) In circumstances where a person is not eligible to receive a permit under subsection (a)(1)A. of this section, the municipality, with respect to highways under its jurisdiction, upon application in writing and for good cause shown, may issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in R.C. §§ 5577.01 through 5577.09, or otherwise not in conformity with R.C. §§ 4513.01 through 4513.37, upon any highway under its jurisdiction.

(b)(1) Notwithstanding R.C. §§ 715.22 and 723.01, the holder of a permit issued by the Director of Transportation under R.C. § 4513.34 may move the vehicle or combination of vehicles described in the permit on any highway that is a part of the state highway system when the movement is partly within and partly without the corporate limits of the municipality. No local authority shall require any other permit or license or charge any license fee or other charge against the holder of a permit for the movement of a vehicle or combination of vehicles on any highway which is a part of the state highway system. The Ohio Director of Transportation shall not require the holder of a permit issued by the municipality to obtain a special permit for the movement of vehicles or combination of vehicles on highways within the jurisdiction of the municipality. ~~Permits may be issued for any period of time not to exceed one year, as the local authority in its discretion determines advisable or for the duration of any public construction project.~~

(2) Except as provided in division (b)(3) of this section, permits may be issued for any period of time not to exceed one year, as the director in the director's discretion or a local authority in its discretion determines advisable, or for the duration of any public construction project.

(3) The director and every county shall issue an annual permit under division (A)(2) of this section for:
(a) A vehicle or combination of vehicles that haul farm machinery, provided that the farm machinery otherwise qualifies for the farm equipment permit or a similar permit offered by the county for farm machinery or equipment;

(b) A vehicle or combination of vehicles that haul agricultural produce or agricultural production materials that otherwise could be hauled by farm machinery or equipment under the farm equipment permit or a similar permit offered by the county for farm machinery or equipment.

(4) In addition to the annual permit issued under (b)(3) of this section, the director and every county may continue to issue a permit under division (a)(2) of this section for the vehicles specified in division (b)(3) of this section, for any period of time up to one year.

(c) (1) The application for a permit issued under this section shall be in the form that the municipality prescribes. The municipality may prescribe a permit fee to be imposed and collected when any permit described in this section is issued. The permit fee may be in an amount sufficient to reimburse the municipality for the administrative costs incurred in issuing the permit, and also to cover the cost of normal and expected damage caused to the roadway or a street or highway structure as the result of the operation of the nonconforming vehicle or combination of vehicles.

***Cross reference**—Fatigued or ill drivers, see § 341.02

Cross reference—Slow-moving vehicles on freeways, see § 331.41

Cross reference—Stopping at grade crossing, see § 331.40

State law reference—Requirements for vehicles transporting explosives, see R.C. § 4513.29

(2) For the purposes of this section and of rules adopted by the director under R.C. § 4513.34, milk transported in bulk by vehicle is deemed a nondivisible load.

(3) For purposes of this section and of rules adopted by the director under R.C. § 4513.34, three or fewer aluminum coils, transported by a vehicle, are deemed a nondivisible load. The director shall adopt rules establishing requirements for an aluminum coil permit that are substantially similar to the requirements for a steel coil permit under O.A.C. chapter 5501:2-1.

(d) The municipality shall issue a special regional heavy hauling permit under subsection (a)(1) of this section upon application and payment of the applicable fee. ~~However,~~ Except when required to issue a special permit under division (b)(3) of this section, the municipality may issue or withhold a special permit specified in subsection (a)(2) of this section. If a permit is to be issued, the municipality may limit or prescribe conditions of operation for the vehicle and may require the posting of a bond or other security conditioned upon the sufficiency of the permit fee to compensate for damage caused to the roadway or a street or highway structure. In addition, the municipality, as a condition of issuance of an overweight permit, may require the applicant to develop and enter into a mutual agreement with the municipality to compensate for or to repair excess damage caused to the roadway by travel under the permit.

(e) Every permit issued under this section shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit. No person shall violate any of the terms of a permit.

(f) The Director of Transportation may debar an applicant from applying for a special permit under this section upon a finding based on a reasonable belief that the applicant has done any of the actions specified in R.C. § 4513.34(F).

(g) Notice and procedures for debarment shall be as provided in R.C. § 4513.34(G).

(h) (1) No person shall violate the terms of a permit issued under this section that relate to gross load limits.

(2) No person shall violate the terms of a permit issued under this section that relate to axle load by more than 2,000 pounds per axle or group of axles.

(3) No person shall violate the terms of a permit issued under this section that relate to an approved route except upon order of a law enforcement officer or authorized agent of the issuing authority.

(i) A permit issued by the municipality under this section for the operation of a vehicle or combination of vehicles is valid for the purposes of the vehicle operation in accordance with the conditions and limitations specified on the permit. Such a permit is voidable by law enforcement only for operation of a vehicle or combination of vehicles in violation of the weight, dimension, or route provisions of the permit. However, a permit is not voidable for operation in violation of a route provision of a permit if the operation is upon the order of a law enforcement officer.

(j) The application for any such permit shall be in such form as the Police Chief may prescribe. No such permit shall cover more than one vehicle, contrivance, structure or load, or more than one operation. The grantee of every permit shall, upon its issuance, pay a \$10.00 fee if the vehicle exceeds weight or both weight and size requirements and a \$5.00 fee if the vehicle exceeds only size requirements.

(k) If, in the opinion of the Police Chief, a police escort is necessary for the public safety, a charge of \$3.00 an hour or fraction thereof, per officer assigned, shall be made. The charge for such escort shall be based on the actual time necessary to accomplish the movement. All fees collected shall be paid to the Finance Director to be deposited in the General Fund.

(l) Whoever violates this section is guilty of a minor misdemeanor.

(R.C. § 4513.34; R.C. § 4513.99; '64 Code, § 339.01)

Cross reference—Penalty, see § 339.99

Sec. 339.14. Loads dropping or leaking; removal required; tracking mud.

(a) No vehicle shall be driven or moved on any highway unless the vehicle is so constructed, loaded, or covered as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand or other substance may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

(b) Except for a farm vehicle used to transport agricultural produce or agricultural production

materials or a rubbish vehicle in the process of acquiring its load, no vehicle loaded with garbage, swill, cans, bottles, waste paper, ashes, refuse, trash, rubbish, waste, wire, paper, cartons, boxes, glass, solid waste, or any other material of an unsanitary nature that is susceptible to blowing or bouncing from a moving vehicle shall be driven or moved on any highway unless the load is covered with a sufficient cover to prevent the load or any part of the load, from spilling onto the highway.

(c) No person shall operate any vehicle so as to track or drop mud, stones, gravel or other similar material on any street, highway or other public place.

(d) It shall be the duty of the driver of a vehicle who unlawfully drops or deposits mud, stones, gravel or other similar material or permits the load or any portion thereof to be dropped or deposited upon any street, highway or other public place to immediately remove the same or cause it to be removed.

(e) ~~Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.~~

(R.C. § 4513.31; R.C. § 4513.99; '64 Code, § 339.14)

Cross reference—Penalty, see § 339.99

Sec. 343.01. Violation of state regulations.

(a) No person shall operate a vehicle used for pupil transportation within this municipality in violation of the rules of the Department of Education and Workforce ~~of~~ the Department of Public Safety. No person, being the owner thereof, or having the supervisory responsibility therefor, shall permit the operation of a vehicle used for pupil transportation within this municipality in violation of the rules of the Department of Education or the Department of Public Safety.

(b) As used in this section, *vehicle used for pupil transportation* means any vehicle that is identified as such by the Department of Education and Workforce by rule and that is subject to O.A.C. chapter 3301-83.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of this section or R.C. § 4511.76, or R.C. §§ 4511.63, 4511.761, 4511.762, 4511.764, 4511.77, or 4511.79 or a municipal ordinance that is substantially equivalent to any of those sections, whoever violates this section is guilty of a misdemeanor of the fourth degree.

(R.C. § 4511.76(C), (F), (G); '64 Code, § 343.01)

Cross reference—Penalty, see § 343.99

Sec. 351.04. Parking near curb; parking locations on public and private lots and garages for persons with disabilities.

(a) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with and not more than 12 inches from the right-hand curb, unless it is impossible to approach so close to the curb; in such case the stop shall be made as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise. Local authorities may by ordinance permit angle parking on any roadway under their jurisdiction, except that angle parking shall not be permitted on a state route within a municipal corporation unless an unoccupied roadway width of not less than 25 feet is available for free moving traffic.

(b) Local authorities may by ordinance permit parking of vehicles with the left-hand wheels adjacent to and within 12 inches of the left-hand curb of a one-way roadway.

(c) *[Directionality.]*

(1) A. Except as provided in subsection (c)(1)B. of this section, no vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.

B. The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.

(2) The operator of a motorcycle may back the motorcycle into a parking space that is located on the side of, and parallel to, a road or highway. The motorcycle may face any direction when so parked. Not more than two motorcycles at a time shall be parked in a parking space as described in this subsection (c)(2) of this section irrespective of whether or not the space is metered.

(d) Notwithstanding any statute or any rule, regulation, resolution, or ordinance, air compressors, tractors, trucks, and other equipment, while being used in the construction, reconstruction, installation, repair, or removal of facilities near, on, over, or under a street or highway, may stop, stand, or park where necessary in order to perform such work, provided a flagperson is on duty or warning signs or lights are displayed as may be prescribed by the Director of Transportation.

(e) Special Accessible parking locations and privileges for persons with disabilities that limit or impair the ability to walk, ~~also known as handicapped parking spaces or disability parking spaces,~~ shall be provided and designated by all political subdivisions and by the state and all agencies and instrumentalities thereof at all offices and facilities where parking is provided, whether owned, rented, or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators, and ramps. All elevated

signs posted in accordance with this subsection and R.C. § 3781.111(C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet. If a new sign or a replacement sign designating a ~~special~~ an accessible parking location is posted on or after the effective date of this chapter, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the ~~special~~ designated accessible parking location if the motor vehicle is not legally entitled to be parked in that location.

(f) *[Special parking locations.]*

(1) A. No person shall stop, stand, or park any motor vehicle at ~~special~~ accessible parking locations provided under subsection (e) of this section, or at ~~special~~ accessible clearly marked parking locations provided in or on privately-owned parking lots, parking garages, or other parking areas and designated in accordance with subsection (e) of this section, unless one of the following applies:

1. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or ~~special~~ accessible license plates;

2. The motor vehicle is being operated by or for the transport of a ~~handicapped~~ persons with a disability and is displaying a parking card or ~~special-handicapped~~ accessible license plates.

B. Any motor vehicle that is parked in an ~~special~~ accessible marked parking location in violation of subsections (f)(1)A.1. or (f)(1)A.2. of this section may be towed or otherwise removed from the parking location by the law enforcement agency of the city. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the city for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the city for towing and storing motor vehicles.

C. If a person is charged with a violation of subsections (f)(1)A.1. or (f)(1)A.2. of this section, it is an affirmative defense to the charge that the person suffered an injury not more than 72 hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in R.C. § 4503.44(A)(1).

(2) No person shall stop, stand, or park any motor vehicle in an area that is commonly known as an access aisle, which area is marked by diagonal stripes and is located immediately adjacent to a special parking location provided under subsection (e) of this section or at a special clearly marked

parking location provided in or on a privately owned parking lot, parking garage, or other parking area and designated in accordance with that subsection.

(g) When a motor vehicle is being operated by or for the transport of a person with a disability that limit or impairs the ability to walk and is displaying removable windshield placard or ~~a temporary removable windshield placard or special~~ accessible license plates, or when a motor vehicle is being operated by or for the transport of a ~~handicapped~~ person with a disability, and is displaying a parking card or ~~special handicapped~~ accessible license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

(h) No owner of an office, facility, or parking garage where ~~special~~ accessible parking locations are required to be designated in accordance with subsection (e) of this section shall fail to properly mark the ~~special~~ accessible parking locations in accordance with that subsection or fail to maintain the markings of the ~~special~~ accessible locations, including the erection and maintenance of the fixed or movable signs.

(i) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or ~~special~~ accessible license plates if the parking card or ~~special~~ accessible license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.

(j) As used in this section:

~~Handicapped person~~ Person with a disability means any person who has lost the use of one or both legs, or one or both arms, who is blind, deaf or ~~so severely handicapped as to be~~ unable to move about without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary or other ~~handicapping~~ disabling condition.

Person with a disability that limits or impairs the ability to walk has the same meaning as in R.C. § 4503.44.

~~Special Accessible~~ license plates and *removable windshield placard* mean any license plates issued under R.C. § 4503.44, and also mean any substantially similar license plates or parking card issued by a state, district, country or sovereignty with which the Ohio Director of Highway Safety has entered into a reciprocity agreement as authorized by R.C. § 5502.03, during the time the agreement is in effect.

(k) *Penalty.*

(l) Whoever violates subsections (a) or (c) of this section is guilty of a minor misdemeanor.

(2) A. Whoever violates subsections (f)(1)A.1. or (f)(1)A.2. of this section is guilty of a misdemeanor and shall be punished as provided in subsections (k)(2)A. and B. of this section. Except as otherwise provided in subsection (k)(2)A. of this section, an offender who violates subsections (f)(1)A.1. or (f)(1)A.2. of this section shall be fined not less than \$250.00 nor more than \$500.00. An offender who violates subsections (f)(1)A.1. or (f)(1)A.2. of this section shall be fined not more than \$100.00 if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:

1. At the time of the violation of subsection (f)(1)A. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or ~~special~~ accessible license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in subsection (f)(1)A.1. of this section.

2. At the time of the violation of subsection (f)(1)A.2. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or ~~special-handicapped~~ accessible license plates that then were valid but the offender or the person neglected to display the card or license plates as described in subsection (f)(1)A.2. of this section.

B. In no case shall an offender who violates subsections (f)(1)A.1. or (f)(1)A.2. be sentenced to any term of imprisonment.

C. An arrest or conviction for a violation of subsections (f)(1)A.1. or (f)(1)A.2. of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

D. The clerk of the court shall pay every fine collected under subsections (k)(2) and (k)(3) of this section to the municipality. Except as provided in subsection (k)(2) of this section, the municipality shall use the fine moneys it receives under subsections (k)(2) and (k)(3) of this section to pay the expenses it incurs in complying with the signage and notice requirements contained in subsection (e) of this section. The municipality may use up to 50 percent of each fine it receives under subsections (k)(2) and (k)(3) of this section to pay the costs of educational, advocacy, support, and assistive technology programs for persons with disabilities, and for public improvements within the municipality that benefit or assist persons with disabilities, if governmental agencies or nonprofit organizations offer the programs.

(3) Whoever violates subsection (f)(2) of this section shall be fined not less than \$250.00 nor more than \$500.00. In no case shall an offender who violates subsection (f)(2) of this section be sentenced to any term of imprisonment. An arrest or conviction for a violation of subsection (f)(2) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in

response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(4) Whoever violates subsection (h) of this section shall be punished as follows:

A. Except as otherwise provided in subsection (k)(4) of this section, the offender shall be issued a warning.

B. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (h) of this section or of a municipal ordinance that is substantially similar to that subsection, the offender shall not be issued a warning but shall be fined not more than \$25.00 for each parking location that is not properly marked or whose markings are not properly maintained.

(R.C. § 4511.69)

Cross reference—Penalty, see § 351.99

Sec. 371.13. Operation of personal delivery device on sidewalks and crosswalks.

(a) As used in this section:

(1) *Eligible entity* means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in business.

(2) *Personal delivery device* means an electrically powered device to which all of the following apply:

A. The device is intended primarily to transport property and cargo on sidewalks and crosswalks.

B. The device weighs less than ~~250~~ 550 pounds excluding any property or cargo being carried in the device.

C. The device has a maximum speed of ten miles per hour.

D. The device is equipped with technology that enables the operation of the device with active control or monitoring by a person, without active control or monitoring by a person, or both with or without active control or monitoring by a person.

(3) *Personal delivery device operator* means an agent of an eligible entity who exercises direct physical control over, or monitoring of, the navigation and operation of a personal delivery device. The phrase does not include, with respect to a delivery or other service rendered by a personal delivery device, the person who requests the delivery or service. The phrase also does not include a person who only arranges for and dispatches a personal delivery device for a delivery or other service.

(b) An eligible entity may operate a personal delivery device on sidewalks and crosswalks so long as all of the following requirements are met:

- (1) The personal delivery device is operated in accordance with all regulations, if any, established by each local authority within which the personal delivery device is operated.
- (2) A personal delivery device operator is actively controlling or monitoring the navigation and operation of the personal delivery device.
- (3) The eligible entity maintains an insurance policy that includes general liability coverage of not less than \$100,000.00 for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity.
- (4) The device is equipped with all of the following:
 - A. A marker that clearly identifies the name and contact information of the eligible entity operating the personal delivery device and a unique identification number;
 - B. A braking system that enables the personal delivery device to come to a controlled stop;
 - C. If the personal delivery device is being operated between sunset and sunrise, a light on both the front and rear of the personal delivery device that is visible in clear weather from a distance of at least 500 feet to the front and rear of the personal delivery device when directly in front of low beams of headlights on a motor vehicle.
- (c) No personal delivery device operator shall allow a personal delivery device to do any of the following:
 - (1) Fail to comply with traffic or pedestrian control devices and signals;
 - (2) Unreasonably interfere with pedestrians or traffic;
 - (3) Transport any hazardous material that would require a permit issued by the Public Utilities Commission;
 - (4) Operate on a street or highway, except when crossing the street or highway within a crosswalk.
- (d) A personal delivery device has all of the rights and obligations applicable to a pedestrian under the same circumstances, except that a personal delivery device shall yield the right-of-way to human pedestrians on sidewalks and crosswalks.
- (e) (1) No person shall operate a personal delivery device unless the person is authorized to do so under this section and complies with the requirements of this section.
- (2) An eligible entity is responsible for both of the following:
 - A. Any violation of this section that is committed by a personal delivery device operator;
 - and

B. Any other circumstance, including a technological malfunction, in which a personal delivery device operates in a manner prohibited by subsections (c)(1) to (c)(4) of this section.
(R.C. § 4511.513)

Sec. 373.03. Attaching bicycle or sled to vehicle.

(a) (1) No person riding upon any bicycle, electric bicycle, coaster, roller skates, sled, skateboard, or toy vehicle shall attach the same or self to any vehicle upon a roadway.

(2) No operator shall knowingly permit any person riding upon any bicycle, electric bicycle, coaster, roller skates, sled, skateboard, or toy vehicle to attach the same or self to any vehicle while it is moving upon a roadway.

(3) This section does not apply to the towing of a disabled vehicle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.99(b).

(R.C. § 4511.54; '64 Code, § 373.03)

Cross reference—Penalty, see § 373.99

Sec. 373.07. Riding bicycle on right side of roadway; obedience to traffic rules; passing.

Every person operating a bicycle or electric bicycle upon a roadway shall ride as near to the right side of the roadway as practicable obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction. Where a walking or bicycle path has been provided adjacent to any road or highway, all pedestrians, equestrians and bicyclists shall use said path.

(R.C. § 4511.55(A); '64 Code, § 373.07)

Cross reference—Penalty, see § 373.99

Sec. 375.04. Permitted operation.

Snowmobiles, off-highway motorcycles, and all-purpose vehicles may be operated as follows:

(a) To make a crossing of a highway, other than a freeway or limited access highway, whenever the

crossing can be made in safety and will not interfere with the movement of vehicular traffic approaching from any direction on the highway, and provided that the operator yields the right-of-way to any approaching traffic that presents an immediate hazard;

(b) On highways in the county or township road systems whenever the local authority having jurisdiction over such highway so permits;

(c) Off and alongside a street or highway for limited distances from the point of unloading from a conveyance to the point at which the snowmobile, off-highway motorcycle or all-purpose vehicle is intended and authorized to be operated.

(d) On the berm or shoulder of a highway, other than a highway as designated in R.C. § 4519.40(A)(1), or a substantially equivalent municipal ordinance, when the terrain permits the operation to be undertaken safely and without the necessity of entering any traffic lane;

(e) On the berm or shoulder or a county or township road, while traveling from one area of operation of the snowmobile, off-highway motorcycle or all-purpose vehicle to another such area.

(f) For snowmobiles without metal studded tracks and all-purpose vehicles, on state highways located on an island in Lake Erie, including limited access highways and freeways, between the first day of November and the thirtieth day of April, provided that all of the following conditions apply:

(1) The operator has a valid driver's license as required under R.C. § 4519.44.

(2) The snowmobile or all-purpose vehicle is in compliance with rules governing safety equipment adopted under R.C. § 4519.20.

(3) The owner of the snowmobile or all-purpose vehicle maintains proof of financial responsibility for both on-road and off-road use of the snowmobile or all-purpose vehicle.

(4) The operator obeys all traffic rules and regulations.

(R.C. § 4519.41; '64 Code, § 375.04)

Cross reference—Penalty, see § 375.99

Section 7. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule, or regulation adopted or issued in pursuance thereof shall be punished by a fine or imprisonment, or both. The fine shall not exceed five hundred dollars (\$500.00) and imprisonment shall not exceed six months.

Section 8. If any section, subsection, sentence, clause, phrase or portion of the Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The governing authority of the City of Brecksville, Ohio hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

Section 9. All ordinances and parts of ordinances in conflict herewith are expressly repealed.

Section 10. The adoption date of this ordinance is _____ and the effective date of this ordinance shall be _____.

ORDAINED this ____ day of _____, _____.

City of Brecksville, Ohio

X

Mayor

ATTEST:

X

City Clerk

I certify that the foregoing ordinance was duly passed by the governing authority of the said city council on this ____ day of _____, _____.

X

City Clerk

APPROVED AS TO FORM:

X

City Attorney