

OHIO CRIMINAL SENTENCING COMMISSION

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TRAFFIC LAW PRIMER **Under S.B. 123, H.B. 52 & H.B. 163**

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Updated 1.1.05

What you will find in this version (#4 is new):

1. S.B. 123 & H.B. 87. As before, the Primer outlines the myriad traffic law reforms enacted in S.B. 123, effective 1.1.04. It includes the OVI changes in H.B. 87 (the .08% BAC bill), effective 6.30.03.

2. H.B. 163 (OVI, *Etc.*). This version expands to cover H.B. 163—which modifies OVI penalties and makes other important changes—effective 9.23.04. Look for “**H.B. 163**” in bold and described in *italics*. Because the topics vary, they are scattered about the outline. Here is where to find key H.B. 163 changes:

OVI Mandatories for 5 Priors in 20 Years (focus on pp. 13 & 15-17);
Higher Penalties for Test Refusal with Prior OVI in 20 Years (pp. 13-14);
Restricted Plates (pp. 18, 42-43, & 45-47); Record Keeping (p. 27-28);
Limited S.B. 123 Retroactivity (pp. 5, 42-43, & 49); & Drug Offense Suspensions (pp. 38-39).

3. H.B. 52 (Vehicular Homicide, Restitution, *Etc.*). The Primer covers changes regarding vehicular homicide, restitution, *etc.* made by H.B. 52, effective 6.1.04. They’re noted by “**H.B. 52**” in bold and described in *italics*. Here’s where to find key topics:

Vehicular Homicides, *etc.* (pp. 60-66); Restitution in Traffic Cases (pp. 71-72); & Driving Without a Valid License (p. 33); Highway Shootings (p. 73).

4. H.B. 230 (DPS Cleanup). The Primer now includes relevant changes made in recent legislation enacted at the behest of the Department of Public Safety (see pp. 5, 29, 46, 47, 49, 52, 58, & 70).

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I. BACKGROUND AND APPLICATION

A. S.B. 123 BACKGROUND

- Sponsored by Senator W. Scott Oelslager, now a member of the Ohio House.
- Based on proposals made by the Ohio Criminal Sentencing Commission.
- In various forms, it was before the General Assembly for over four years, receiving scores of hearings in both houses.
- Passed the General Assembly on June 19, 2002, receiving unanimous support in both houses in final form. Signed by Governor Bob Taft on August 2, 2002.
- Among the largest bills enacted in Ohio, it touches 400+ Revised Code sections.

B. EFFECTIVE DATES

- **S.B. 123** (major Traffic Code rewrite): **1.1.04**
- **H.B. 490** (misdemeanor sentencing): **1.1.04**
- **H.B. 87** (.08% BAC): **6.30.03**
- **H.B. 52** (*vehicular deaths & assaults; restitution*): **6.1.04**
- **H.B. 230** (Department of Public Safety Law refinements): **9.16.04**
- **H.B. 163** (*OVI 20 year look back, etc.*): **9.23.04**

C. NOT RETROACTIVE; EXCEPTIONS

1. The 1.1.04 Line. S.B. 123 drew a clean line between old and new law (§5). With 2 exceptions (below), S.B. 123 applies only to “conduct and offenses” on or after 1.1.04. Conduct occurring before 1.1.04 must be sentenced under pre-S.B. 123 law.

- This is true despite §1.58(B), which tells how statutory changes affect pending cases. It generally instructs judges to impose new penalties if they benefit the defendant. To keep a clean line before and after S.B. 123, the bill exempted itself from §1.58(B).

2. Two Exceptions. Under **H.B. 163**:

- *Persons under suspension on 1.1.04 may petition for broader driving privileges under S.B. 123, if qualified for privileges (see pp. 43-44);*
- *Persons facing 15 year or longer suspensions can count good behavior before 1.1.04 toward the 15 year minimum before petitioning to modify such a suspension (see p. 50).*

D. MISDEMEANOR SENTENCING PURPOSES RE TRAFFIC

1. Basic Rules. In guiding misdemeanor sentencing, H.B. 490 laid out purposes and principles to be considered by courts. The purposes include punishing offenders and protecting society from

future harm. Guiding principles include sentencing in a proportionate, consistent, and fair manner.

2. Exception: Traffic Rule 13 Cases. H.B. 52 *exempted MMs generally and Rule 13 traffic cases from these purposes and principles (§2929.21(A), (B), & (D)).*

- *This was done to deemphasize restitution for minor offenses and eliminate the perceived need for court appearances in such cases.*
- *The amendment may be too sweeping, since it seems to eliminate the need to consult basic sentencing principles (such as proportionality and fairness) in setting payment schedules for MMs & minor traffic offenses.*

E. SHORTHANDS

- **“ALS”** refers to administrative license suspensions under §4511.191.
- **“Former law”** and similar phrases typically refer to the law before S.B. 123.
- **“FR”** means “financial responsibility”, which in turn means having insurance, a bond, or other proof that a driver can respond if a collision causes damages.
- **“License”** or **“driver’s license”** in this Primer also covers a commercial driver’s license (CDL), temporary instruction permit, probationary license, restricted license, and nonresident operating privileges, when relevant.
- **“M-1, M-2” etc.** are short for 1st degree misdemeanor, 2nd degree misdemeanor, etc. **“MM”** means minor misdemeanor.
- **“OVI”** is short for “operating a vehicle under the influence of alcohol, a drug, or a combination of them” (§4511.19, *etc.*).

II. MERGING OFFENSES AND PENALTIES

A. HISTORICALLY

Before S.B. 123, the Revised Code section that described a traffic offense didn’t set out penalties for violators. Rather the penalties appeared in “.99” sections at the end of each chapter (*e.g.*, §4507.99, 4511.99, *etc.*).

B. MERGER

S.B. 123 generally unites the penalties with the sections creating each offense throughout the Traffic Code (Title 45 of the Revised Code).

- S.B. 123 repeals many .99 sections in Title 45 in whole or part.
- While renumbered, the penalties themselves rarely change.

LIST 5 IN PART XIII SHOWS THE SECTIONS WITH MERGED PENALTIES.

III. OPERATING A VEHICLE UNDER THE INFLUENCE

A. “OVI” NOT “OMVI”

1. **Renamed.** S.B. 123 renames the offense "operating a vehicle under the influence" of alcohol &/or other drugs (OVI), rather than "operating a *motor* vehicle under the influence" (OMVI).

2. **Reason.** The crime can be committed on bicycles, horse carriages, and other vehicles without motors.

- See §4511.19(G)(1) & §4511.01(A)’s definition of “vehicle”.
- **LIST 6 IN PART XIII** gathers the sections amended to reflect this change together with other sections in which S.B. 123 makes non-substantive changes.

B. “CONSEQUENCES” FORM

1. **Officers Must Read It.** As before, law enforcement officers must read a form to persons stopped on suspicion of State or municipal OVI.

2. **Applies to Physical Control.** In a new provision, *part* of the form must be read to those suspected of a physical control violation (§4511.192(A))(see pp.23-25 for more on physical control).

3. **New Form.**

a. **S.B. 123** simplified the form somewhat and moved it from former §4511.191 to new §4511.192.

b. **H.B. 163** *increases OVI penalties for those with a prior OVI, underage violation, or municipal OVI conviction in the past 20 years who refuse to submit to a chemical test (§4511.19(A)(2). The penalty falls into the “high end” OVI sanctions (i.e., those for persons who test at .17% or higher). The bill amends the form to reflect the change. (See p. 14.)*

c. **Revised Form.** S.B. 123 tells the person he or she is under arrest for the relevant offense (OVI, municipal OVI, or physical control), then adds (§4511.192(B)):

“If you refuse to take any chemical test required by law, your Ohio driving privileges will be suspended immediately, and you will have to

pay a fee to have the privileges reinstated. *If you have a prior OVI or OVUAC conviction under state or municipal law within the preceding twenty years, you now are under arrest for state OVI, and, if you refuse to take a chemical test, you will face increased penalties if you subsequently are convicted of the state OVI.* If you take any chemical test required by law and are found to be at or over the prohibited amount of alcohol in your blood, breath, or urine as set by law, your Ohio driving privileges will be suspended immediately, and you will have to pay a fee to have the privileges reinstated. If you take a chemical test, you may have an independent chemical test taken at your own expense."

- The form varies slightly for physical control cases.
- It is unclear why the form limits the enhanced penalty to "state OVI" cases.

d. Where Read. Former law required the officer to read the form "at a police station, or at a hospital, first-aid station, or clinic" (former §4511.191(C)(1) & (2)(a)).

- S.B. 123 simply instructs the arresting officer to read it, without specifying where (§4511.192(A)).

e. Witnesses. Former law required that the form be signed and witnessed by another officer, civilian police employee, or employee of a hospital, first-aid station, or clinic where the person is taken (former §4511.191(C)(2)).

- S.B. 123 simply requires one or more persons to witness the reading and to sign the form (§4511.192(A)).

C. IMPLIED CONSENT & ALS

TABLE 11 LAYS OUT ALS PENALTIES. [SEE THE APPENDIX FOR ALL TABLES]

1. Test Refusal Can Mean Higher OVI Penalties. *Under H.B. 163, if a person with a prior OVI or municipal OVI in the past 20 years refuses to submit to chemical testing and is convicted of the OVI charged, the person must be sentenced to the same penalties as those who are convicted of a OVI with a BAC of .17% or higher (and its equivalents) (§4511.19(A)(2) & (G)). (See p. 14.)*

2. Physical Control. Implied consent and ALSs apply to physical control cases (*e.g.*, §4511.191(A)(2)). (See pp. 24-5.)

- There is an ALS for refusing to test, but not for testing over the legal limits.

3. Consistent Look Back. Rather than look back 5 years for prior offenses to enhance ALS penalties, S.B. 123 makes the period 6 years, consistent with other recent changes in OVI law (§4511.191(B)(1)(c)).

- *Note, however, that **H.B. 163** adds a 20 year look back for various purposes (see pp. 13-18).*

4. Terminating ALSs. In S.B. 123, the ALS appeal statute (§4511.197(D)) correctly says that a refusal ALS continues even if the driver is later found not guilty, while the positive test ALS terminates on a not guilty finding.

- However, the ALS statute (§4511.191) failed to terminate a positive test ALS when the driver was found not guilty.
- *While **H.B. 163** changes ALS language, it may not correct the error (§4511.191(C)(2)).*

5. ALS Suspension Lengths. As suggested by the Sentencing Commission in an earlier bill, suspension periods for refusals are longer than for submitting and testing over the limit.

6. Other Changes. These changes also deserve mention.

- S.B. 123 uses the broader and more accurate term “law enforcement officer” in ALS law instead of “police officer” (*e.g.*, §4511.191(A)(3)).
- It classifies the suspensions (§4511.191(B)(1)(a)-(d)).
- The refusal suspension and suspension for testing over the legal limits move from §4511.191(E) & (F) to (B) & (C) of the same section.
- S.B. 123 streamlines various other provisions and/or moves them within the section, without substantive changes.
- As elsewhere in OVI law, ALS law also refers to blood serum and plasma, separate from whole blood (*e.g.*, §4511.191(A)(2)).
- Former (G) said that a subsequent not guilty finding only affects the suspension based on the outcome of the appeal. S.B. 123 states that a not guilty finding doesn’t affect the refusal suspension (§4511.191(D)(1)).

D. ALS APPEALS

S.B. 123 slightly streamlines and moves former law on license seizures and appeals. (Former §4511.191(D)(1)&(2), (H), (I), (J), & part of (K) become new §4511.192(C) & (D) & §4511.197, superseding former §4507.18). There are 2 substantive changes of note:

1. Longer Time to Appeal. Former law required the defendant to appeal at the initial appearance, held within 5 days of arrest.

- S.B. 123 allows the driver to appeal at initial appearance or within 30 days of arrest (§4511.192(D)(1)(a)).
- The Registrar’s duty to replace a license destroyed after an ALS or OVI suspension harmonizes with the 30 day time frame (former §4507.55 becomes new §4510.53).

2. Physical Control. The appeal language also applies to refusal ALSs in physical control cases (§4511.197(A), (C)(1), & (D)).

E. CHEMICAL TEST SUBSTANCES

1. Gap in Old Law. It set levels over which a driver was “*per se*” under the influence of alcohol, as measured by a chemical test of the alleged offender’s blood, breath, and urine.

- According to the Department of Health, labs frequently measure blood serum or plasma, not whole blood.
- The concentration of alcohol in serum or plasma is about 20% higher than in whole blood.

2. Adding Serum and Plasma. S.B. 123 adds *per se* serum and plasma levels. The changes appear in the tables at the end.

TABLE 9 SHOWS PER SE LEVELS FOR OVI.

3. Notes to Law Enforcement & Courts. Pay particular attention to these aspects of the tables:

a. OVI Citations. Revised Code citations changed for breath and urine tests (effective 1.1.04) & “high end” tests (effective 9.27.04).

- **H.B. 163** again changed the citations, this time for *all per se §4511.19(A) violations, effective 9.23.04.*
- **Effective Dates.** The **H.B. 87** *per se* levels (discussed next) apply on and after 6.30.03 with one exception: standards for serum or plasma took effect 1.1.04.

F. .08% BAC IN H.B. 87

After S.B. 123 passed, but before its effective date, the General Assembly enacted H.B. 87. It reduced the *per se* BAC from .10% to .08% and made comparable changes in the serum/plasma, breath, and urine levels.

TABLE 9 SHOWS PER SE LEVELS FOR OVI.

TABLE 10 SHOWS PER SE LEVELS FOR UNDERAGE CONSUMPTION.

1. Effective Date. As noted, the lower *per se* levels apply to persons stopped on and after 6.30.03, not 7.1.03.

- The provision took effect on the 91st day after 3.31.03, the day the Governor signed H.B. 87 and filed it with the Secretary of State.
- H.B. 87 also amended the levels so they apply to S.B. 123's new version of §4511.19 by including blood serum and plasma levels, effective 1.1.04.

2. What Did Not Change. H.B. 87 did not change:

- The "high" OVI threshold levels (.17% BAC, *etc.*);
- The minimum underage thresholds (.02% BAC, *etc.*);

G. ADMITTING CHEMICAL TESTS

1. Lab Reports in Lieu of Expert Testimony.

a. Experts. Before S.B. 123, expert testimony was needed to admit a test as evidence in OVI cases.

b. Certified Lab Reports. As in drug cases, where a lab report suffices, S.B. 123 allows admitting reports from certified laboratories as *prima facie* evidence (§4511.19(E)(1)).

c. When Testimony. The person who drew the blood must testify only if the defendant demands it within 7 days of receiving the test results. The judge may extend the 7 day time frame (§4511.19(E)(3)).

- **Must Be Served.** The report isn't admissible against the defendant (except in a preliminary hearing or grand jury proceeding), unless the prosecutor serves a copy on the defendant or defense attorney (§4511.19(E)(2)).

d. Details. S.B. 123 specifies the lab report's contents and requires the tester to sign it under oath (§4511.19(E)(1)).

- Formerly, test results were available to the defendant and the defendant’s attorney or agent. S.B. 123 removed “agent”.

2. Phlebotomists. When a person submits to a blood test on suspicion of impaired driving, only certain people can draw blood.

- S.B. 123 adds qualified phlebotomists to the physicians, nurses, technicians, and chemists already covered (§4511.19(D)(1) & (3)).
- As with others authorized to draw blood, phlebotomists are immune from criminal and civil prosecution.
- The person drawing blood loses immunity if he or she engages in willful or wanton misconduct (§4511.19(F)).

H. PUBLIC SAFETY SUSPENSION

1. When. Courts may impose a suspension on certain persons arrested for OVI (as before) or physical control (new) offenses when (§4511.196(B)(1)&(2)):

- The driver’s ALS was overturned on appeal; or
- The driver did not receive an ALS for refusing to test or for testing over the allowed alcohol content; and
- In either case, the court also finds that the person’s continued driving poses a threat to public safety.

2. Duration Clarified. Formerly, the time frame for public safety suspensions was unclear.

- When an ALS isn’t imposed, or gets overturned on appeal, S.B. 123 authorizes a public safety suspension any time before adjudicating the charge (§4511.196(B)(1)&(2)).

I. OVI PENALTIES

TABLE 13 SHOWS MISDEMEANOR OVI PENALTIES.

TABLE 14 SHOWS FELONY OVI PENALTIES.

TABLE 16 SHOWS UNDERAGE CONSUMPTION PENALTIES.

1. Penalties Merged. S.B. 123 melds various OVI penalties into §4511.19(G) and gathers the underage penalties in §4519.11(H)).

- **Includes:** Jail time, driver intervention programs, treatment, fines, license suspensions, reinstatement fees, license plate

impoundment, restricted plates, vehicle immobilization, & vehicle forfeiture.

- Formerly, these penalties appeared in several sections, including §§4507.16, 4511.19, 4511.191, & 4511.99.

- **Unchanged:** Most incarceration terms, suspensions, fines, plate impoundments, vehicle forfeitures, and other penalties remain the same as, or similar to, pre-S.B. 123 law.
- **Changed:** However, **H.B. 163** and, to a lesser extent, S.B. 123 & **H.B. 52** made important changes that are discussed over the next few pages.

2. 6 Year & 20 Year Look Backs. Go slow, this is confusing.

a. Still 6 Years Generally. As before, the number of prior OVIs or equivalent offenses during the previous 6 years generally defines the offense level.

b. 20 Year Overlay. *However, H.B. 163 uses a 20 year look back in three key situations:*

i. Refusals = High End Penalties. *To require the .17% BAC (or equivalent) penalties when a driver has at least one prior OVI offense in 20 years, now refuses to submit to a chemical test, and is convicted of OVI (see 3 below, p. 14).*

ii. 5 Priors in 20. *It makes OVIs into felonies when the driver has 5 or more prior offenses within 20 years (see part 4, pp. 15-17 below) and it mandates additional prison time for them.*

iii. Underage. *For those between ages 18 & 21, the added “mandatory” jail term of “up to 6 months” if the court imposes a jail term (see part 5, pp. 17-18 below).*

3. High End Penalties for Certain Test Refusals.

a. **Why?** *In some jurisdictions, over 50% of those stopped on suspicion of OVI refuse to submit to chemical testing.*

- *Observation and field sobriety tests cannot alone establish a high end OVI.*

b. **The New Refusal Penalties. H.B. 163** *increases OVI penalties for certain refusers (§4511.19(A)(2) & (G)).*

- **20 Year Look Back.** *If a defendant has a prior OVI conviction within 20 years*
- **Current Refusal.** *Refuses to submit to blood, breath, or urine testing*
- **.17% penalties.** *If convicted of OVI, the driver faces the same penalties as those who test at or over .17% BAC or its equivalents.*
 - *The .17% penalties themselves do not change. As before, they effectively double the sanctions for testing below .17%.*
- *See (§4511.19(G)(1)(a)(ii), (b)(ii), (c)(ii), (d)(ii), & (e)(ii) & TABLES 13, 14, & 16.*
- **Relevance of 6 Year Look Back.** *The 6-year look back still determines the degree of the offense.*
 - *High end penalties may be imposed at every misdemeanor & felony OVI level.*
- **Priors.** *Enhancing priors are limited to violations of municipal OVI ordinances and underage violations of §4511.19(B).*
 - *Oddly, the General Assembly didn't include the broader list of "equivalent offenses" as priors, unlike elsewhere in OVI law.*

c. **New Crime or Sentencing Factor?** *While new language sounds like a sentencing enhancement, it arguably creates a new crime (refusing to test if the driver has a prior in 20 years). The bill places the change in division (A), which defines the crime (§4511.19(A)(2)), rather than placing it only in the penalty provisions.*

- **Lesser Included?** Left open is the question of whether a §4511.19(A)(1) violation is a lesser included offense to (A)(2). The latter requires proof of additional elements (refusal and prior in 20 years) and carries higher penalties. But both are M-1s.

d. New Citations. Since the G.A. renumbered divisions in the OVI statute to create the refusal penalties just discussed, law enforcement and courts should pay particular attention to the new citations.

TABLE 9 SHOWS THE NEW OVI CITATIONS.

Drafting the refusal-based OVI as §4511.19(A)(2), meant cross-reference changes elsewhere in §4511.19 as well as in several other sections (*e.g.*, §§4123.54, 4510.54, 4511.191, 4511.194).

4. 5 Priors in 20 Years. *Besides refusals, H.B. 163 created other OVI penalties based on the longer look back.*

a. 5 priors in 20 = F-4. *Anyone with 5 priors in 20 years must be charged as an F-4. If convicted without a spec (below), the person must be sentenced as an F-4 OVI (§4511.19(A)(1) & (G)(1)(d) in **H.B. 163**).*

- That is, absent a specification, the court must sentence the offender to a minimum of 60 days of local incarceration or prison and other OVI F-4 sanctions.

b. Specification & Surpenalty. *A mandatory prison term of 1, 2, 3, 4, or 5 years must be imposed—instead of the penalty for the underlying F-4 OVI—when the offender is convicted of a specification listing 5 or more “equivalent” offenses in the past 20 years (§§2929.13(G)(1) & (2), 4511.19(G)(1)(d) & (e), and §2941.1413 in **H.B. 163**).*

i. The Spec. *Before the added penalty can be imposed, the trier of fact must find the offender guilty—beyond a reasonable doubt—of a specification showing the 5 or more priors in 20 years (§2941.1413(A)).*

ii. Spec Confusion. Oddly, the finding needed to put the OVI in the basic F-4 box is the same as what must be specified in the indictment for 1 to 5 years of added time.

- **Upshot: Discretion.** This affords charging and sentencing options. The presence of the spec moves the charge into the 1 to 5 year range. Its absence keeps the mandatory term at 60 days.

iii. Spec Confusion: Local v. State Time. *Some contend that added spec time isn't required if the court elects a mandatory term of local incarceration—such as a jail, CBCF, halfway house, or alternative facility—for the underlying F-4 (relying on §2929.13(G)(2)).* [Admission: an earlier version of this Primer reflected that sentiment].

- *This ignores §2929.13(G)(1), which says the court may elect to sentence F-4 OVI's to a 60 mandatory term of local incarceration if the offender hasn't been convicted of the 5 priors in 20 years spec.*
- **The Spec Wins.** In short, discretion to impose 60 days local time does not trump the mandatory prison term under the spec.
 - The 60 day terms apply only if the spec is not charged or proved.

iv. Still More Spec Confusion. *The General Assembly considered H.B. 163 & H.B. 52 at the same time and approved them within days of one another. Unfortunately, each created 2 new specs that were assigned to the same section numbers—§2941.1413 (5 priors in 20 years in H.B. 163 & peace officer victim spec in AVH cases in H.B. 52) & §2941.1414 (5 in 20 underage spec in H.B. 163 & chronic OVI spec in AVH cases in H.B. 52).*

- **All Are Valid.** Two will be renumbered. Our guess: the H.B. 163 specs will become §2941.1415 & §2941.1416.

c. Whither Misdemeanor OVI's? Previously, any 1st, 2nd, or 3rd OVI within 6 years was an M-1.

- *As we have seen, under H.B. 163, if any person has 5 or more equivalent offenses within 20 years, he or she must be sentenced as an F-4 (§4511.19(G)(1)(d) & (e)).*

- Thus, as with the refusal penalty discussed above, the higher penalties apply to some who would have been “first offenders” under the 6 year look back.
- **Supersedes 6 Year Look Back.** However, unlike with refusal penalties, the 20 year look back effectively supersedes the 6 year version. If there are fewer than 5 priors in 20 years, the 6 year look back again controls.
- For underage violators, see the following discussion.

d. Definitions

- “**Equivalent Offense**” is defined in §4511.181 (see p. 22).
- “**Mandatory Prison Term**”. *H.B. 163 amends the term to recognize the 5 in 20 change (§2929.01(Y)(2)).*

5. Underage Penalty Changes.

a. Refusal Enhancement. While they count as priors for future OVIs, H.B. 163 did not add a new underage violation for test refusals in §4511.19(B).

- However, the underage test refuser could be charged with, and convicted of, an §4511.19(A)(2) violation.

b. 5 Priors in 20 Years Spec. *H.B. 163 applies the new 5 in 20 spec to underage offenses. But it’s different.*

i. “Mandatory” Time. *If the court imposes a jail term for the offense, it shall add (§4511.19(A)(2)):*

- *An additional, mandatory, consecutive, definite term of not more than 6 months if the offender is found guilty of a 5 prior OVIs (or equivalents) in 20 years specification (§2929.24(E)).*

- *In short, it’s an optional mandatory.*

- *The bill changed the definition of “mandatory jail term” to include the 5 to 20 spec (§2929.01(U)).*
- “**Equivalent offense**”. Defined in §4511.181 (see p. 22).

ii. The Spec. *The specification must appear at the end of the information and be proved beyond a*

reasonable doubt (**H.B. 163's** version of §2941.1414).

iii. Confusion. The spec may be renumbered. See the discussion at 4(b)(iv) above (p. 16).

c. Underage Suspension. S.B. 123 increased the suspension from 60 days to 2 years (former §4507.16(E)) to Class 6 (3 mo. to 2 yrs.) on 1st offense (§4511.19(H)(1)).

6. Restricted Plates & Driving Privileges. As before, limited privileges are available once the hard suspension period ends (see §4510.13(A)(7)).

a. Optional or Mandatory Plates? Under S.B. 123, no privileges could be granted unless the vehicle driven displayed restricted (scarlet & maize) plates (§4511.19(G)(4)). This raised practical issues, particularly *re* 1st OVI offenders.

b. Compromise. Under **H.B. 163**, if the court grants privileges—to take effect after the hard part of an OVI suspension ends—restricted plates are (§4510.13(A)(7)):

- **Optional** for first offenders (in 6 years, unless they had 5 or more priors in 20 years) who test under .17% BAC or its equivalent.
- **Re New §4511.19(A)(2).** Restricted plates do not appear to be required for a person who receives high-tier OVI penalties after refusing to submit to a chemical test, provided the offender's prior did not occur within 6 years. The violation falls under §4511.19(A)(2) and the restricted plates language in §4510.13(A)(7) only mentions (A)(1) violations.
- **Mandatory** for first offenders who test at or over .17% and for all repeat offenders (§4510.13(A)(7)).
- **Re New 6th in 20 Years.** A 1st offender in 6 years who tests under .17% BAC (or equivalent), but has 5 priors in 20 years (**4** above), fits the mandatory category.

c. Exceptions. S.B. 123 created limited exceptions for employers when restricted plates otherwise would be a condition of privileges (§4503.231). (See p. 47.)

d. For More. See “Restricted Plates” beginning on p. 46.

7. No 3rd Party Forfeitures. S.B. 123 eliminates vehicle seizure, immobilization, and forfeiture when the driver doesn’t own the vehicle involved (see pp. 52-55).

8. Continuous Alcohol Monitoring.

a. New Sentencing Option. *H.B. 163 adds that “continuous alcohol monitoring” can be used with or without house arrest as a community control sanction for misdemeanants (§2929.27(A)(2)), felons (§2929.17(B)), and juveniles (§2152.19(A)(4)(j) & (k)).*

b. In OVI Cases. A little-used provision allows the use of electronically-monitored house arrest in lieu of jail time for 2nd & 3rd OVIs within 6 years.

- *H.B. 163 adds that continuous alcohol monitoring can be used with, or in lieu of, electronic monitoring in these cases (§4511.19(G)(1)(b)(i)&(ii), (G)(1)(c)(i)&(ii), & (G)(3)).*

c. Definition. *“Continuous alcohol monitoring” means the ability to automatically test and periodically transmit alcohol consumption levels (and tamper attempts) at least every hour, regardless of the monitored person’s location (§2929.01(WW)).*

9. Treatment on 1st Offense. Perhaps because of intervention programs, former law did not authorize a treatment option for 1st offenders.

- In gathering treatment provisions, S.B. 123 makes clear that the programs are available on 1st conviction (§4511.19(G)(1)(a)(i), 2nd ¶ & (I)).
- The offender must pay for the program. If indigent, the court may order the cost paid from the indigent drivers' alcohol treatment fund (§4511.19(I)(2)).

10. Note on Mandatory Suspensions. As before, OVI carries mandatory license suspensions, including a "hard" period during

which no driving privileges may be granted (§4511.19(G)(1)(a)-(d) & (H) & §4510.13(A)(2) & (A)(5) replace former §4507.16(E)-(L)).

- **Oddities:** The hard suspension period for felony OVIs is 3 years under §4510.13(A)(5). But (A)(3) of the same section seems to preclude any privileges when an offender has 3 or more prior OVIs or 3 or more test refusals in 6 years.
- The Code mandates a Class 3 (2 to 10 years) suspension for a 3rd OVI in 6 years. But the minimum seems to be one year under §4510.13(A)(2)(b).

TABLES 13, 14, & 16 SHOW SUSPENSION PERIODS.

11. Felony Sentencing Clarifications. Uncertainty has lurked in the felony OVI sentencing law since its adoption in 1996. In particular, questions arose about using community control and judicial release, given the law’s separate local and State tracks.

While still confusing, H.B. 163 helps to make clear that:

- *Prison is available as a sanction for community control violators, even when sentenced initially to local incarceration in a jail, community-based correctional facility, etc.*
- *Community control can be imposed with a prison term, but only served after any mandatory prison time ends. While the drafting is not particularly artful, the change seems to allow judicial release from any non-mandatory prison term imposed;*
- *New mandatory prison terms for having 5 prior OVIs in 20 years trump the terms otherwise available for felony OVIs.*

a. Allowing Community Control. *Several provisions in H.B. 163 authorize courts to sentence felony OVIs to community sanctions. Since any mandatory prison term must be served first (e.g., §2929.14(D)(4)), one effect of the change is to allow judicial release during the non-mandatory portion of a prison term. See:*

- *For prison-bound felony OVIs—§4511.19(G)(1)(d)(i)&(ii) & §2929.13(A)(1)&(2) & (G)(1)&(2), §2929.15(A), & §2929.16(A)).*
- *For OVIs convicted of the 5 priors in 20 years spec (H.B. 163’s §2941.1413)—§4511.19(G)(1)(d)(i)&(ii), §2929.13(G)(2), §2929.15(A)(1), & §2929.16(A).*

b. Community Control Violators. Since the community control option was uncertain for some felony OVIs, there wasn't language governing community control violators.

- *H.B. 163 fills a gap by clearly authorizing judges to sentence felony OVIs who violate conditions of community control to any sanction—including prison—that's available in other felony cases (§2929.15 & §2929.13(A)(1) & (G)(1)). It makes a parallel changes in the sentencing hearing statute (§2929.19(C)(1) & (2)).*

c. 5 Priors in 20 Years Spec. Under **H.B. 163**, conviction of the spec (pp. 15-17) eliminates eligibility for the local sentencing incarceration option.

12. Other Changes.

a. Impaired When Operating. Under S.B. 123, the driver must be under the influence “at the time of the operation” (§4511.19(A) & (B)). No substantive change was intended.

b. Community Control Suspension. Independent of the suspensions required or allowed under §4511.19, as before, sentencing law allows courts to require OVI offenders to use ignition interlocks as a condition of community control (historically “probation”) and to impose a suspension for failing to use them (§2951.02(J)(4)).

- On 1st offense, S.B. 123 neutrally converted the former “up to 1 year” suspension to Class 7.
- On subsequent offenses, S.B. 123 placed the former “up to 5 years” suspension in Class 4 (1 to 5 years).

c. Streamlined. While still long, the OVI penalty provisions are shorter than before (at least before H.B. 163). To streamline, S.B. 123:

- Classifies suspensions in the new template (see §4510.02).
- Defines “mandatory jail term” to cover the required 3, 6, 10, 20, 30, & 60 day terms, and, with narrow exceptions, can't be suspended, reduced, or otherwise modified (§4511.181(B)(1)-(2)).
- Consistent with other changes, replaces “municipal OMVI ordinance” with “municipal OVI ordinance” (§4511.181(C)).
- Notes that various other terms have the same meanings as in Title 29's criminal sentencing statutes (§4511.181(D)).
- Condenses fine distribution language into §4511.19(G)(5) and, as noted, treatment provisions into §4511.19(I).

d. Felony OVI & Electronic Monitoring. S.B. 123 clarifies that an F-4 OVI sentenced to local incarceration is eligible for electronic monitoring after the mandatory term. But an F-3 or F-4 OVI sentenced to prison does not become eligible for electronic monitoring (§2929.23).

J. CONSISTENCY OF PRIORS & PENALTIES

1. Consistency Regarding Prior Offenses.

a. The Problem. Statutes and practice varied as to which prior offenses counted to determine an impaired driver’s criminal history for purposes of enhanced penalties.

- Former §4511.181 did not address several situations, including convictions under Federal law and comparable former Ohio law.

b. “Equivalent Offense”. S.B. 123 amends §4511.181 to make clearer which offenses count as priors. Each of these is an “equivalent offense”:

- A State OVI under §4511.19(A);
- A State underage violation under §4511.19(B), even though the elements and forum are different;
- A municipal OVI ordinance violation;
- Involuntary manslaughter with an impaired driving finding under 2903.04(D);
- Any vehicular homicide or vehicular assault under §2903.06, §2903.08, or former §2903.07 related to impairment;
- Any existing or former municipal ordinance, law of another state, or US law that is substantially equivalent to §4511.19(A) or (B); and
- A violation of any former Ohio law that was substantially equivalent to §4511.19(A) or (B).

TABLE 12 SHOWS PRIOR OFFENSES FOR OVI PURPOSES.

Not “Equivalent”: Violations of the new physical control statute (§4511.194) are *not* “equivalent offenses”, nor are impaired boating offenses.

2. Consistency Regarding Other Penalties

a. The Problem. Because of OVI’s unusual penalties, there was some question about whether the Criminal Code’s (Ch. 2929) basic sentencing provisions apply.

b. Relevance of Ch. 2929. S.B. 123 makes clear the offender can be sentenced under the general sentencing law in Chapter 2929, with deference to the specific OVI penalties in §4511.19 and elsewhere (§4511.19(G)(1)).

- In short, Ch. 2929 penalties may be used when they don’t conflict with mandatory terms set by OVI law.

K. PHYSICAL CONTROL AND “OPERATE”

1. Gap in Former Law. As interpreted, former law said that a person sitting in the driver’s seat of a stationary vehicle could be charged with impaired driving. State law did not have a separate charge for someone who is impaired in a car, but not driving.

2. New Offense. S.B. 123 creates a new offense of being intoxicated while in “physical control” of a vehicle, but not driving. This can be shown by field sobriety tests or chemical tests with the same *per se* levels as OVI (§4511.194(B)).

3. Key Definitions.

a. “Physical Control” means “being in the driver's position of the front seat of a vehicle . . . and having possession of the vehicle's . . . ignition key or other ignition device” (§4511.194(A)).

b. “Operate”. To distinguish OVI and physical control, S.B. 123 defines “operate” to mean “to cause or have caused movement of a vehicle” (§4511.01(HHH)).

- **Former Confusion.** S.B. 123 covered operation “on any public or private property used by the public for purposes of vehicular travel or parking.” It inadvertently narrowed OVI venue between 1.1.04 & 6.1.04.
 - *To make sure OVI and related offenses can be charged on purely private property, H.B. 52 removed the narrowing phrase.*
- **The Upshot.** OVI can occur anywhere in the State, rather than only on public or private roads and parking lots (§4511.01(HHH)).

TABLE 15 COVERS PHYSICAL CONTROL PENALTIES.

- 4. Penalties.** As with OVI, physical control violations are M-1s.
- a. No Mandatories.** However, physical control violations don't carry OVI's various mandatory penalties. Instead, the judge may impose (§4511.194(C)):
- Up to 6 months in jail;
 - A Class 7 license suspension; and/or
 - A fine and other misdemeanor sanctions.
- b. No Enhancements.** The penalty does not increase for prior violations, nor does a physical control conviction count as a prior offense to enhance OVI penalties.
- 5. Physical Control Mechanics.**

- a. Implied Consent.** One in physical control of a vehicle gives implied consent to chemical tests (§4511.191(A)).
- b. ALS & "Consequences" Form.** There is an administrative license suspension (ALS) for refusing to test, but not for testing over the legal limit.

The form read by law enforcement officers to persons stopped on suspicion of OVI also will be read in part in physical control situations (§4511.192(A)).

- The officer should tell the person asked to test on suspicion of a physical control violation that he or she faces an ALS for refusing to test.
 - The person will not be warned of an ALS for testing over the legal limit, since there isn't one for this offense (§4511.192(B) & (D)(2)).
- c. Independent Test.** As with OVI, the officer must tell the driver that he or she may have an independent chemical test at his or her expense (§4511.192(B)).
- d. ALS Appeal.** As with OVI, the person may appeal the ALS to the appropriate court within 30 days of the initial appearance or arraignment (§4511.197(A), (C)(1), & (D)).

e. Initial Appearance. Like OVI, the initial appearance must be within 5 days of arrest or citation (§4511.196(A)).

f. Gap Re Local Ordinances. In laying out procedures for the new State physical control offense, S.B. 123 did not refer specifically to “equivalent” municipal ordinances.

- *H.B. 163 fills the gap so that these provisions also apply under municipal ordinance.*

L. DRIVING UNDER AN OVI SUSPENSION

TABLE 7 SHOWS DUOVIS PENALTIES.

1. Consolidated & Moved. Operating a vehicle while under an OVI suspension, including underage and municipal OVIs (§4511.19 & §4510.07)), and under an ALS or public safety suspension (§4511.191 & §4511.196), moves from former §4507.02(D)(2) and §4507.99(B) to new §4510.14.

2. Key Changes. There are a few noteworthy changes.

a. 6 Year “Look Back”. S.B. 123 extends the time frame for prior offenses that enhance penalties from 5 to 6 years, consistent with other OVI statutes (§4510.14(B)).

b. No 3rd Party Forfeiture. S.B. 123 eliminates forfeitures of cars not owned by the driver (see pp. 52-55).

c. Restricted Plates. If limited driving privileges are permitted and granted, the offender must display restricted license plates (§4510.14(E)), subject to the exception for out-of-state drivers in §4510.231(B).

M. APPLICABLE RULES

1. Confusion. Rules adopted by the Ohio Supreme Court largely govern court procedures. There was confusion about whether the Traffic or Criminal Rules applied in felony OVI cases.

2. S.B. 123 Suggestions. S.B. 123 says Traffic Rules should apply in adult felony OVI cases, except as provided in §4511.19 (§2937.46(B)). But that section says the Criminal Rules apply to felony OVIs, unless the Court amends the Traffic Rules (§4511.19(L)). S.B. 123 then asks the Supreme Court to amend the Traffic Rules to address felony OVIs (Section 3).

3. The Court’s Response. Traffic Rule 2(A) was amended in 2002 to exclude felonies from the definition of “traffic case”.

4. The Upshot. Traffic Rules govern adult misdemeanor OVIs. Criminal Rules govern adult felony OVIs.

N. OVI MISCELLANY

1. Other Definitions

- S.B. 123 makes clear that §4510.01's definitions control over any conflicts with definitions in §4501.01 & §4511.01 (§4511.19(K)).
- In various places in OVI law, S.B. 123 replaces "police officer" with the broader term "law enforcement officer".
- Language specifying that 3 consecutive days means 72 consecutive hours moves to §4511.19(G)(1)(a)(i), allowing repeal of §4511.991.

2. Municipal Violations. S.B. 123 clarifies that a suspension equivalent to that required in State law for the same offenses must be imposed for these municipal offenses (§4510.07):

- A substantially equivalent OVI offense;
- Vehicular homicides or vehicular manslaughter substantially equivalent to §2903.06;
- Soliciting sex while in, on, or using a motor vehicle under §2907.24.

O. IMPAIRED BOATING

S.B. 123 makes the law governing impaired boating more like OVI law. Some key differences remain, however, largely because boaters do not have operator's licenses to suspend.

1. Made Similar to OVI. Here's how S.B. 123 makes the impaired boating law more like OVI for land vehicles:

a. Serum & Plasma. Adds *per se* standards for blood serum and plasma (*e.g.*, §1547.11(A))(3) for adults & (B)(2) for underage violations).

- **H.B. 163** corrected the *per se* level to .096%. *H.B. 87* mistakenly set the level at .96%, negating the value of serum/plasma blood tests in boating cases from 1.1.04 to 9.23.04, when the correction takes effect.

b. Juvenile Proceedings. Makes clearer the law applies to both juvenile and adult courts (*e.g.*, §1547.11(D)(1)).

c. Phlebotomists. Allows phlebotomists to draw blood for chemical tests (*e.g.*, §1547.11(D)(1)).

d. Equivalent Offenses. Incorporates “equivalent” violations to cover priors under municipal ordinances, other states’ laws, and Federal law (§1547.11(G)(1)).

- **Note**, boating violations and vehicle OVIs don’t recognize one another as prior “equivalent” offenses.

e. Certified Lab Reports. Allows using certified lab reports in lieu of expert testimony unless the defendant objects (§1547.11(E)).

f. Implied Consent. Adds flexibility to witnessing the “consequences” form (§1547.111(C)).

g. “Look Back” Period. Standardizes the look back period for prior offenses at 6 years (§1547.99(G)(3)).

2. Different From OVI. Here are the key differences between impaired boating and OVI.

a. No License Suspension. Boaters do not have operator’s licenses to suspend. Although, as before, the Division of Watercraft can prohibit a person from operating or registering a boat.

b. No Felony. Mandatory jail terms match OVI on 1st, 2nd, and 3rd offenses, but there is no felony enhancement for 4th and subsequent violations.

c. No ALS. Boating law does not contain an administrative license suspension.

d. No Separate Physical Control. Impaired operation and being in physical control carry the same penalties.

P. 50-YEAR RECORD KEEPING

1. The Basic Requirements. *Under H.B. 163, clerks of municipal, county, and common pleas courts must retain documents on each criminal conviction and guilty plea “that is or was before the court” for 50 years after the judgment entry ((§§1901.41(E), 1907.231, & 2301.141).*

2. Format. *The record must be in a form that is “admissible as evidence of a prior conviction in a criminal case.” It may be retained in a form allowed by §9.01 (photographic & electronic data, etc.).*

3. Scope.

i. *The provision was designed to facilitate prosecution of multiple OVI offenders, but also applies to other crimes.*

ii. *It applies to records currently retained and to those created in the future.*

iii. *It notwithstanding § 149.38 (public records law).*

4. Supreme Court Rules. *The Supreme Court developed a new Superintendence Rule (2603 & 2605) to harmonize the record keeping time frame with **H.B. 163**.*

IV. DRIVER’S LICENSE SUSPENSIONS

A. NEW SUSPENSIONS CHAPTER

S.B. 123 gathers and standardizes the law governing most license suspensions in new Chapter 4510.

**LIST 1 IN PART XIII SHOWS SECTIONS MOVED FROM
FORMER CH. 4507 & 4511 TO NEW CH. 4510.**

B. CLEARER TERMS

1. Suspend or Cancel. Traditionally, the Code used several terms to describe suspending or terminating a driver’s license (“suspend”, “cancel”, “forfeit”, “revoke”, etc.). S.B. 123 replaces these with two terms, which it defines for purposes of Title 45 (Traffic Code) and Title 29 (Criminal Code):

- **“Suspend”** - Permanent or temporary withdrawal, by a court or BMV, of a person’s license or privilege (§4510.01(H)).
- **“Cancel”** - Annulment or termination by BMV of a license that was obtained unlawfully, issued in error, altered, willfully destroyed, or terminated because the person is no longer entitled to it (§4510.01(A)).
 - **Note:** Courts never cancel licenses.

2. **“Forfeit” Revived.** In **H.B. 230**, the legislature revived the term “forfeit” to cover BMV’s taking of licenses after failure to appear, *etc.* (see BMV’s \$15 Processing Fee, p. 52).

C. CLASSIFYING SUSPENSIONS

S.B. 123 places most license suspensions into classes (§4510.02).

TABLE 1 SHOWS CLASSES OF COURT & BMV SUSPENSIONS.

LIST 2 IN PART XIII SHOWS COURT SUSPENSIONS.

LIST 3 SHOWS ADMINISTRATIVE (BMV) SUSPENSIONS.

1. **Durations.** Generally, S.B. 123 puts suspensions in classes with the same or similar duration as under old law. There are exceptions (see **3** below). The classes should appear on LEADS.

a. **Court Suspensions.** A court-imposed suspension is for a *definite* period selected from these ranges (§4510.02(A)):

| | |
|----------------------------------|--------------------------------------|
| Class 1 – life | Class 5 – 6 months to 3 years |
| Class 2 – 3 years to life | Class 6 – 3 months to 2 years |
| Class 3 – 2 to 10 years | Class 7 – not > 1 year |
| Class 4 – 1 to 5 years | |

b. **Administrative (BMV) Suspensions.** A BMV-imposed suspension is for a definite period as follows (§4510.02(B)):

| | |
|--------------------------|---|
| Class A – 3 years | Class D – 6 months |
| Class B – 2 years | Class E – 3 months |
| Class C – 1 year | Class F – until conditions are met |

2. **Unclassified Suspensions.**

a. Reason. Some suspensions are not classified because they do not fit squarely into a new class, or because of legislative resistance to lowering the maximum time.

b. Rule if Unclassified. If the law is silent on the class, S.B. 123 provides that new Ch. 4510 governs the suspension unless the suspending statute specifies otherwise (§4510.02(D)).

- *E.g.*, Drug law contains unclassified suspensions of 6 months to 5 years, so Ch. 4510 governs driving privileges (see pp. 38-39).

3. Changed Suspension Periods. Suspension periods change for a handful of offenses. Here are some significant ones:

- Longer mandatory suspensions (with no driving privileges) for fleeing and eluding law enforcement officers and for leaving a collision scene;
- Reckless operation suspension goes from up to 1 year to Class 5 (6 months to 3 years);
- Longer suspensions for underage alcohol offenses;
- Longer mandatory suspensions for perjury or falsification in obtaining a driver's license;
- No suspension for using a vehicle in committing a felony.

LIST 4 IN PART XIII SHOWS SUSPENSIONS WITH CHANGED DURATIONS.

4. Adding Specificity. Some offenses called for “a suspension” but didn't indicate a length. S.B. 123 attempts to be more specific.

a. FTA after Using License as Bond. Places failure to appear in court after using a driver's license as bond in Class 7 (§2937.221(A)). Former law “declared a forfeiture”.

b. FTA in Certain Traffic Cases. Places the suspension for failure to appear or pay a related fine in Class F.

- Language in old and new law tells the court to inform BMV “30 days after the suspension”.
- This implies that it's a court suspension for 30 days, then a BMV suspension until conditions are met (former §4507.168 moves to §4510.22).

- Also, while implied in prior law, S.B. 123 makes clear that this suspension covers temporary instruction permits as well as other licenses and privileges.
- c. Child Support Default.** Puts the suspension in Class F (§§3123.55, 3123.58, 3123.59, 3123.613, & 3123.614).
- **CDLs & Permits.** S.B. 123 adds commercial driver’s licenses and temporary permits to the list of those who face nonsupport suspensions (§4507.111).
- d. Juveniles.** Classifies suspensions and extends the period of juvenile court control, while allowing broader privileges (see pp. 68-72).
- e. Cigarette Tax Violations.** The suspension for cigarette tax evasion and related offenses changes from a BMV suspension to a court suspension. The suspension isn’t classified, but S.B. 123 specifies a “30 days to 3 years” range. It appears to be mandatory, since the first 30 days cannot be suspended (§5743.99(F)).

D. FAILING TO STOP OR HEED AN OFFICER

S.B. 123 increases penalties for fleeing, eluding, and not heeding a peace officer and for failing to stop after a collision.

1. Fleeing & Eluding an Officer.

a. Former Penalties. Former law imposed a 30 day to 3 year suspension (§4507.16(A)(1)(e)). The suspension was 10 years when a person caused a death using a motor vehicle while eluding or fleeing (§4507.166).

b. Penalty Increases. S.B. 123 increases the suspensions as follows (§2921.331(E)):

i. Adds Ignoring. In addition to fleeing and eluding, S.B. 123 adds ignoring an officer’s order. However, the legislature probably didn’t intend for this offense to receive the same mandatory suspension as fleeing and alluding cases.

ii. Longer Suspensions. Places the suspension in Class 2 (3 years to life) on 1st offense and in Class 1

(life) for subsequent violations, with no death required for the Class 1 suspension.

iii. Mandatory. The court can't suspend the first 3 years of the Class 2 suspension or any of the Class 1 suspension.

iv. No Privileges. Nor can the court grant driving privileges during these suspensions.

2. Not Stopping After Collision. S.B. 123 increases to Class 5 (6 mos. to 3 yrs.) the former 30 day to 3 year suspension (implied in former §4549.02) for failure to stop and disclose identity at a crash scene on a public way (§4549.02(B)) or at any other public or private place (§4549.021(B)).

a. Mandatory. Moreover, the suspension is mandatory; the first 6 months can't be suspended.

b. Privileges. It does not address driving privileges, which seems to make them optional with the court.

E. DRIVING UNDER SUSPENSION & RELATED OFFENSES

S.B. 123 breaks various DUS offenses (formerly in §4507.02 & §4507.99) into separate sections.

1. Basic DUS. Driving under suspension moves from former §4507.02(B)(1)&(2) to new §4510.11(A).

a. Basic Penalties. While streamlined, the basic penalties don't change much (§4510.11(C)(2),(3),(4),(D), & (E) replace former §4507.99(A)&(C)): M-1 with a "mandatory" Class 7 license suspension (up to one year).

b. Note on "Mandatory" Class 7 Suspensions. Various DUS-related sections call for a "mandatory" Class 7 suspension (see §§4510.11 (DUS), 4510.12 (no valid license), 4510.14 (DUOVIS), 4510.16 (DUFERS), & 4511.203 (wrongful entrustment)).

- It is unclear what "mandatory" means here, since Class 7's time frame is "up to one year".
- Must a judge impose at least one day? How about one minute? **H.B. 163 failed to clarify this.**

TABLE 2 SHOWS DUS PENALTIES.

b. Immobilization & Forfeiture. S.B. 123 also retained:

- Mandatory vehicle immobilization and plates' impoundment for 30 days (under §4507.02(B)).
 - The court may not release a vehicle immobilized for a 1st or 2nd DUS without current proof of FR (§4510.11(D)).
- With any prior DUS (there's no time frame), mandatory vehicle immobilization and plates' impoundment for 60 days.
- With 2 or more prior DUSs, mandatory vehicle forfeiture under §4503.234 (§4510.11(C)(4) & (E)).
 - Unless the court terminates the forfeiture, BMV must deny any application to register any vehicle owned or leased by the offender for 5 years (§4510.11(E)).

Key Change: Under S.B. 123, the mandatory immobilization and forfeiture provisions only apply to vehicles owned by the driver (for more on this, see pp. 52-55).

2. Driving in Violation of a License Restriction. The offense, on public or private property, moves from former §4507.02(B)(2) to new §4510.11(B) with the same penalties as DUS (§4510.11(C)).

TABLE 2 COVERS RESTRICTION VIOLATIONS.

3. Driving Without Valid License. The penalty for driving without a valid license moves to §4510.12 from former §4507.02(A)(1)&(3) and §4507.99(D) & (H).

a. Penalties.

i. Former. While an MM under former law if the license was expired less than 6 months, the offense was otherwise indistinguishable from M-1 DUS (former §4507.99(D) & (H)).

ii. New. S.B. 123 instead creates a sliding scale of penalties depending on the time since the license expired and the history of violations (§4510.12(B)(2)):

- MM, as before, if expired for 6 months or less;
- M-4 if expired for longer than 6 months;
- M-3 with 1 prior conviction in the past 3 years;
- M-2 with 2 prior convictions in the past 3 years;
- M-1 with 3 or more priors in the past 3 years.

iii. **Newer.** S.B. 123 inadvertently eliminated the penalty for offenders who never obtained a license.

- **H.B. 52** fills the gap by reinserting the M-1 penalty for driving without a valid license when the driver never had a license (§4510.12(B)(1)).

TABLE 3 IN SHOWS DRIVING WITHOUT A VALID LICENSE PENALTIES.

b. **No Prior, No Suspension.** If the offender hasn't violated the statute in 3 years, the court can't impose a new suspension (§4510.12(C)).

c. **Suspension Available.** If the offender had a prior conviction within 3 years *and* if the license expired more than 6 months before, the offense carries a "mandatory" Class 7 suspension (§4510.12(D)).

4. **Failure to Reinstate.** Driving without properly reinstating a license after a suspension moves from general DUS law (former §4507.02(C)) to new §4510.21. It remains an M-1 with an optional suspension placed in Class 7 (§4510.21(B)).

- **Key changes:**
 - **Broader Scope.** The offense formerly applied to failing to properly reinstate a license after selected impaired driving suspensions. S.B. 123 extends it to *all* suspensions.
 - **Minimize Impact.** However, S.B. 123 gives the court tools to minimize the number of violators (see p. 49).

TABLE 4 SHOWS PENALTIES FOR FAILURE TO REINSTATE.

5. **Still in §4507.02.** As noted, most DUS provisions move to Ch. 4510. Revised Ch. 4507 now focuses on licensing. For example, these provisions remain in §4507.02:

- a. **Permitting Unlicensed Driving.** Permitting someone to drive without a proper license (former §4507.02(A)(2)) becomes §4507.02(A)(1);
- b. **Not Surrendering Non-Resident License.** Getting an Ohio driver's license without surrendering an out-of-state license (former (A)(4)) moves to §4507.02(A)(2));
- c. **Power to Impound.** Language empowering judges to impound license plates for various violations moves from former (F) to new §4507.02(B), with updated references.

F. OVI SUSPENSIONS

1. Merged. S.B. 123 moves suspensions for operating a vehicle under the influence of alcohol and/or drugs (OVI) from §4507.16 to §4511.19, the substantive OVI section.

2. Key Changes. Generally, OVI suspensions remain the same. However, there are some key changes (see **Part III** for more detail):

- While a greater variety of driving privileges are available once the “hard” suspension is served, the many privileged drivers must display restricted license plates.
 - **1st OVI Exception.** *Under H.B. 163, restricted plates are an optional condition of driving privileges for a 1st OVI offender who tests below .17% BAC or its equivalent, (§4510.13(A)(7)).* (See pp. 18 & 46-48.)
 - **Employer Exception.** There is another exception to the restricted plates requirement for employers (See §4503.231(B) & p. 45 below).
- The suspension range for underage violations (§4511.19(B)) increases from “60 days to 2 years” to Class 6 (3 months to 2 years) (former §4507.16(E) becomes §4511.19(H)(1)).

G. FINANCIAL RESPONSIBILITY SUSPENSIONS

1. Driving Without FR. The suspension for driving without insurance or other proof of financial responsibility remains the same for 1st and 2nd violations.

- The 3rd violation now carries a suspension of up to 2 years, doubling the former maximum.
- However (§4509.101 & §4509.45):
 - A court may grant driving privileges earlier than before;
 - The person may not have to maintain high rate insurance for as long; and
 - The Registrar has formal authority to terminate unfair FR suspensions in certain situations.

2. Driving Under an FR Suspension. S.B. 123 streamlines and merges the offense and penalties in §4510.16. Penalties are similar to former §4507.02(B)(1) and §4507.99(C), with key changes:

- S.B. 123 calls for a “mandatory” suspension (but see the note on p. 32);
- S.B. 123 ended 3rd party vehicle seizures;
- S.B. 123 removed the “look back” period for calculating prior offenses that affect penalties.
 - **H.B. 52** reinstated the look back at 5 years (§4510.16(B)(1)).
 - **Upshot:** For DUFRS occurring 1.1.04 until 6.1.04, the look back period was unlimited.

TABLE 5 SHOWS DUFRS PENALTIES.

- 3. For More on FR.** See Financial Responsibility in **Part VI.**

H. POINTS AND POINTS SUSPENSIONS

The Revised Code assigns points to each moving violation. A driver who accrues 12 within a 2 year period faces a Class D (6 month) suspension.

- 1. Moved to New Chapter.**

- a. Points Generally.** New §4510.036 assigns points. It supersedes former §4507.021(F)-(I).
- b. 12 point suspension.** The suspension, procedures, and appeals move from §4507.021(J)-(O) to new §4510.037.
- c. Abstracts.** Court and BMV duties regarding case abstracts move from §4507.021(A)-(E) to new §4510.03-§4510.035 without substantive changes.

TABLE 6 SHOWS POINTS & PENALTIES FOR DRIVING UNDER A POINTS SUSPENSION.

- 2. By Offense.** S.B. 123 rearranges points by seriousness.

- With the notable exceptions of speeding and fleeing and eluding, points assigned to offenses do not change much.
- Here are the points for various offenses listed in new §4510.036(C) (remember, violations of comparable municipal ordinances also carry points):

- a. Six Point Offenses.** As before, these offenses (and similar municipal ordinances) carry 6 points:
 - Aggravated vehicular homicide (§2903.06(A)(1) & (2)); Vehicular homicide (§2903.06(A)(3)); Vehicular manslaughter (§2903.06(A)(4));

Aggravated vehicular assault (§2903.08(A)(1)); Vehicular assault (§2903.08(A)(2)); Fleeing, eluding, or ignoring a law enforcement officer (§2921.331) [ignoring is new]; Failure to stop and disclose identity at a collision scene (§§4549.02 & 4549.021); Street racing (§4511.251); DUS, including under OVI & FR suspensions (§§4510.11, 4510.14, & 4510.16); Driving after failing to reinstate one's license (§4510.21); OVI (§4511.19(A)); Unauthorized use of a motor vehicle (§2913.03); and any felony motor vehicle violation or any felony committed with a motor vehicle.

b. Four Point Offenses. These offenses (and similar municipal ordinances) carry 4 points:

Underage drinking and driving (§4511.19(B)); Operating in willful or wanton disregard of property or persons (§4511.20); and Exceeding the speed limit by 30 mph or more.

c. Two Point Offenses. These offenses (and similar municipal ordinances) carry 2 points:

Exceeding a speed limit of 55 mph or higher by > 10 mph, but < 30 mph; Exceeding a speed limit of 55 mph or less by > 5 mph, but < 30 mph; Operating a vehicle in violation of a Registrar's restriction; All other moving violations reported.

d. Zero Point Offenses. Speeding less than 5 mph over the limit in town or less than 10 mph over on highways remains a violation subject to a fine, *etc.*, but carries no points.

e. Physical Control Points. S.B. 123 does not assign points to the new State physical control offense, since it is not a moving violation.

3. Speeding Points. The lists above mention changes in points for speeding. For more, see p. 60.

4. Remedial Driving Course and Points. For more on this topic, see §4510.038 and p. 48 below.

a. Before Points Suspension. A person with 2 to 12 points may complete a Department of Public Safety (DPS) approved remedial driving course and receive a 2 point credit (§4510.037(C)(1)).

b. Limits. The credit language is broader than former law. The new credit language allows:

- One 2-point credit in 3 years (§4510.037(C)(2));

- 5 credits per lifetime (§4510.037(C)(2));
- However, BMV can't credit 2 points for completing a remedial course ordered by a court as a condition of regaining a license after suspension (§4510.037(C)(1)).

5. Driving Under A Points Suspension. Driving under the suspension remains an M-1 with a mandatory jail term of at least 3 days (§4510.037(J)). A person can't get a new license while under the suspension (§4510.037(H)).

6. To Reinstate a License. To regain a license after a 12 point suspension: complete & pass a remedial driving course; retake & pass the driver's license exam; & provide FR proof (§4510.038).

7. Points Law Mechanics. In moving from §4507.021, the mechanics don't change much. As before:

- Courts must send abstracts of convictions to BMV, including the number of chargeable points (§4510.036(B)).
- BMV must: record abstracts (§4510.036(A)), including points assigned (§4510.036(B)); delete points for bond forfeiture if a driver is acquitted (§4510.036(D)); for more than one offense out of the same circumstances, charge points only for the offense with the most points, or for only one if they carry equal points (§4510.036(E)); send a warning letter after 5 points (§4510.037(A)); send suspension notice (effective in 20 days) after if 12 points in 2 years (§4510.037(D)); & credit any court suspension for the offense against a points suspension (§4510.037(D)).
- The 6 month suspension (placed in Class D) for 12 points in 2 years moves to §4510.037(B). Details on the driver's appeal to the appropriate municipal, county, or juvenile court move to §4510.037(E), (F), & (G).
- Purposeful failure to comply with the points law is misconduct in office and is grounds for removal (§4510.035).

I. DRUG SUSPENSIONS

1. Suspension. As before, a suspension must be imposed for any drug abuse offense, irrespective of whether the offense involves a motor vehicle (§§2925.02-2925.37 & 4510.17 replace §4507.169).

2. Driving Privileges Confusion. Former law was unclear on whether privileges could be granted during drug suspensions.

3. Privileges Allowed During Court & BMV Suspensions.

a. During Court Suspensions. S.B. 123 enacted §4510.021 to allow privileges during *any* court suspension (see pp 41-42) unless prohibited by statute.

- This general rule was adopted so that a privileges clause would not have to be added to each suspension.
- Since no statute specifically forbids driving privileges during court-imposed drug suspensions, S.B. 123’s broader array of privileges is available to those given court suspensions.

b. During BMV Suspensions. When an Ohioan commits a drug offense in another state or under Federal law, BMV must impose a Class D suspension. (This moved from former §4507.169 to new §4510.17(A).)

- Generally, driving privileges aren’t allowed under BMV suspensions unless authorized by statute (see p. 42).
 - *H.B. 163 amended §4510.17 to authorize courts to grant limited driving privileges (§4510.17(E)).*
 - *Although the change did not revise other language in the section specific to work situations, by using the S.B. 123’s “limited” language, the intent was to make education, medical, treatment, and other privileges (see pp. 41-42) available.*

c. Upshot. Where drug suspension privileges stand:

- Limited driving privileges are allowed during drug suspensions imposed by Ohio courts under S.B. 123 (§4510.021);
- Similar privileges may be granted by courts during Class D suspensions imposed upon Ohioans convicted of drug offenses in other jurisdictions (§4510.17(E)).

3. Reports to Licensing Boards. Drug violations by “attorneys and professionally licensed persons” must be reported. Since attorneys are licensed, S.B. 123 strikes the redundant reference to “attorneys” (§2925.38).

J. “RECKLESS” DRIVING SUSPENSION

Before S.B. 123, a court could suspend a license for up to one year for various traffic offenses when it found an offender reckless (old §4507.34). S.B. 123 rephrased the section, but inadvertently failed to clarify that the suspension is available for egregious or other moving violations.

- *H.B. 52 resuscitates the discretionary suspension for a reckless operation offense (willful or wanton disregard of safety) (§4510.15).*

- *However, it placed the suspension in Class 5 (6 months to 3 years) rather than in the predecessor to Class 7 (up to one year).*

K. STREET RACING

- 1. Pre S.B. 123.** The offense bore a “30 days to 3 years” suspension under Ch. 4507, now largely repealed (old §4507.16(A)(1)(d));
 - But it also bore a mandatory 30 day minimum and a 1 year maximum suspension under §4511.251(C).
- 2. S.B. 123.** The bill left street racing unclassified in §4511.251(C), but set the range at “30 days to 1 year”.
- 3. H.B. 163 Change. H.B. 163** *makes the penalties “30 days to 3 years” to conform to the higher maximum previously allowed.*
- 4. Upshot.** Persons charged under §4511.251(C) between 1.1.04 & 9.23.04 face a 1 year maximum. Thereafter, it’s 3 years.

L. EMERGENCY AFFIRMATIVE DEFENSE

- 1. Former Law.** Driving because of a “substantial emergency” when no other person is available was an affirmative defense, but only to driving under OMVI suspensions (§4510.04, 1st ¶).
- 2. Expanded.** S.B. 123 applies the emergency defense to a person charged with any of the following:
 - Driving under suspension (§4510.11);
 - Driving under an OVI suspension (§4510.14);
 - Driving under an FR suspension (§4510.16); and
 - Failure to reinstate a license (§4510.21).
- 3. FR Suspensions.** S.B. 123 also provides new defenses to financial responsibility suspensions (see pp. 57-58).

M. LIMITED DRIVING PRIVILEGES

- 1. Expanded.** To help suspended drivers maintain employment, stay in school, get treatment, and for other worthy purposes, S.B. 123 expands the court’s authority to grant driving privileges during suspensions (former §4507.16(F)(2) becomes §4510.021).

a. “Limited” Replaces “Occupational” Privileges.

Former law allowed privileges for “occupational” purposes. S.B. 123 renames them “limited” driving privileges, but allows them in more situations (§4501.01(TT) & §4510.021).

b. More Purposes. Under S.B. 123, privileges may be granted for various limited purposes (§4510.021(A)(1)-(3)):

- Occupational;
- Educational;
- Vocational (job training programs, *etc.*);
- Medical;
- Taking a driver’s license exam; and
- Court-ordered treatment.
- For juveniles, to practice driving with a parent, guardian, or custodian (§4510.021(D)).

c. During Court Suspensions. S.B. 123 clarifies that the court may grant privileges during *any* court-imposed suspension, if not prohibited by statute (§4510.021(A)).

- **When Prohibited.** Privileges can’t be granted during these court suspensions:
 - Failure to heed a police officer’s order or willfully eluding or fleeing an officer (§2921.331(E));
 - During the “hard” part of an OVI suspension, during any part a suspension for 3 or more OVIs or ALSs in 6 years, including underage violations, or under CDL law (§4510.13);
 - For child endangering involving impaired driving, with 2 or more related prior offenses (§2919.22(G)); and
 - For certain repeat moving violations by juveniles (§4510.31).

d. During BMV Suspensions. Unless *allowed* by statute, a court can’t grant privileges during BMV suspensions (§4510.021(B)). Nor can the BMV.

i. When Allowed. S.B. 123 authorizes privileges during these BMV suspensions:

- Certain FR suspensions—see p. 56;
- Probationary license suspensions; and
- To allow a person to earn money to pay

reinstatement fees imposed for either a court or BMV suspension (§4510.10(C)(2)).

ii. Process When Allowed. The suspended driver must petition a municipal, county, or juvenile court in his or her home county (§4510.021(B)).

- S.B. 123 allowed nonresidents to petition in the Franklin County Municipal Court.
- **H.B. 52** continues to allow non-Ohioans to petition in Columbus, but it also permits the non-resident to petition in a court of record in the county “where the offense occurred.”
- Nonresident juveniles may file in the Franklin County Juvenile Court or in any juvenile court with jurisdiction over the offense (§4510.021(B)).

e. Drug Suspensions. S.B. 123 permits work privileges during drug offense suspensions. **H.B. 163** clarifies privileges for BMV suspensions for out-of-state drug offenses by Ohioans (see p. 39).

2. Mandatory Conditions. There are trade-offs to the broader privileges. If granted, the court must:

- a. Set Limits.** Specify the purposes, times, and places of privileges, as in former law (§4510.021(A));
- b. Proof of FR.** Require the offender to provide proof of financial responsibility under §4509.45 (§4510.021(E)).

3. Restricted Plates in OVI Cases. In addition to the mandatory conditions above (§4510.13(A)(7)):

- **Optional.** A court may require (**H.B. 163**) the driver to display restricted plates if driving privileges are granted during the “soft” part of a suspension imposed for a first OVI conviction:
 - **Under .17%.** Provided the offender did not test over .17% BAC or its equivalent (§4510.13(A)(7)).
 - **1st in 6 with Refusal.** It seems that restricted plates are not required for a 1st offender (in 6 years) who receives high-tier penalties because of a test refusal and a prior in 20 years under §4511.19(A)(2). The governing section only requires the plates for

§4511.19(A)(1) violations (see §4510.13(A)(7)).

- **Mandatory.** A court *must* order restricted plates as a condition of privileges for other 1st offenders and for all repeat OVIs.
 - **1st in 6 but 6th in 20.** A low test 1st offender within 6 years, who has 5 priors in 20 years (F-4), seems to fall into the mandatory category.
- **Exception.** There is an employment exception (see p. 47 below).

4. Optional Conditions. In granting privileges, the court *may*:

- a. Reasonable Ones.** Impose any other reasonable conditions on the driver (§4510.021(A));
- b. Devices.** Require use of an immobilizing or disabling device as a condition of privileges (§4510.021(C) & see **N** below) when the use isn't mandated.

5. Limited Retroactivity. *Despite the lack of retroactivity under S.B. 123, H.B. 163 carves an exception for an offender with an active suspension as of 1.4.04 (presumably if still active on and after 9.23.04). The person may petition for the broader driving privileges available under S.B. 123.*

- *Applicants may include those with active court suspensions and those with active BMV suspensions under which S.B. 123 authorizes persons to appeal to a court for privileges.*
- *S.B. 123 law governs any such privileges granted.*
- *The key language isn't codified, so it's hard to find. It appears not in the body of the bill, but in Section 3 (after the repealer clause). Sec. 3 in turn amends Section 5 of S.B. 123 to accomplish this. (See Sec. 3 and Sec. 5(B)(1)(a)&(b), & (B)(2).)*

N. IMMOBILIZING & DISABLING DEVICES

As a tool to monitor driving privileges during suspensions, S.B. 123 expands both the use and kinds of devices designed to prevent a prohibited or impaired driver from driving.

1. More Devices Allowed

a. Former Law. The only option was “ignition interlocks” designed to prevent starting a car if a driver’s breath contains alcohol (former §4511.83).

Interlocks were required for certain OMVI, ALS, and OMVI-related vehicular homicide suspensions (former §4511.83)

b. More Devices. S.B. 123 uses the broader term “immobilizing and disabling devices.”

i. Definition. It covers any device approved by DPS that is ordered by a court as a condition of limited driving privileges, including prototypes (§4510.01(D)).

ii. Examples. Devices include:

- Ignition interlocks (defined in §4510.01(C), regulation moves to §4510.43(A)(2)-(4)).
- New gadgets, such as:
 - Ignition blocking devices initiated by time, magnetic, or electronic encoding;
 - Activity monitors;
 - Global positioning satellites; or
 - Other devices that “reasonably assure compliance” (§4510.43(A)(2)).

c. Approval. As with interlocks, the DPS Director must approve any immobilizing or disabling device and make lists available to courts (§4510.43(A)(1)&(2)).

d. Using Prototypes. As noted, S.B. 123 allows "prototype" devices to let courts experiment with new technologies, in controlled situations (§4510.43(B)).

i. Defined. The definition covers any testing device to monitor driving privileges not yet approved or disapproved by DPS (§4510.01(G)).

- The definition of “immobilizing and disabling devices” includes any prototype used according to protocols designed to ensure efficient and effective monitoring of driving privileges (§4510.01(D)).

ii. Regulated. A court considering a pilot prototype program must (§4510.43(B)):

- Advise the DPS director 30 days before use;

- Describe the device's protocol, methodology, manufacturer, and agent or owner, and the length of the court's pilot program;
- Once the pilot starts, periodically during the program, and within 14 days after it ends, report in writing to DPS regarding the effectiveness of the device and program.

iii. Not for OVI or DUS. A prototype can't be used to monitor privileges in an OVI, ALS, or DUS case (§4510.43(B)).

2. Broader Uses.

a. Old law. Former law authorized ignition interlocks only in impaired driving related cases.

b. Expansion. While still mandatory for 3rd and subsequent OVIs (§4511.19(G)(1)(c)-(e)), S.B. 123 says the devices may be used as a condition of driving privileges for *any* offense, unless prohibited by statute (§4510.021(C)).

3. Employment Exception. As before (former §4511.83(B)(3)), an offender ordered to use a device as a condition of driving privileges may drive an employer's vehicle in the normal course of business without the device, if (§4510.43(C)):

- The employer is notified of the restriction; and
- The driver carries proof of the notice.
- The exception doesn't apply to an offender-owned business.

4. Nonresident Exception - Repealed. S.B. 123 added a new exception. If the vehicle is registered out-of-state, the device wasn't required. Instead, the vehicle had to bear a BMV decal describing the restriction for Ohio (former §4510.43(C)).

- At DPS's request, **H.B. 230** repealed the decal requirement.

5. Penalties. Carries over the former M-1 penalties for subverting interlock devices, applying them to all immobilizing or disabling devices (former §4511.83(D)-(E) becomes new §4510.44).

O. RESTRICTED PLATES

1. What Are They? Ohio prints a special license plate to be used by certain problem drivers (§4503.231).

- The Registrar can vary the colors, so long as they are distinct from regular tags and contain numbers making them readily identifiable to law enforcement.
- The plates have scarlet lettering on a yellow field today.

2. Old Names. These plates are called by various names.

- The authorizing statute called them “identification plates” that are “different” from those regularly issued (§4503.231).
- Other statutes referred to them as “special plates” (*e.g.*, old §4507.02(F)).
- Courts occasionally dub them “family plates” because of the impact on anyone who drives the marked car and the pressure family members can put on the driver to avoid offenses leading to the plates.

3. New Name. S.B. 123 calls them “restricted” plates (§4503.231), because the driver is under a license restriction.

- A lingering statute still used the “special” plates term (§4507.02), but **H.B. 163** amended it for consistency (§4507.02(B)(2) & (3)).

4. Historic Uses. Certain serious traffic offenses call for impounding the involved vehicle’s license tags.

- **When Plates Are Impounded.** While little known, former law said that the *vehicle with impounded plates* could only be driven during certain impoundments if it bore special plates. Under S.B. 123, as before, it applies after impounding regular tags for (§4503.231(B) & §4507.02(B)(1)):
 - Driving under suspension (§4510.11);
 - Driving under an OVI suspension (§4510.14);
 - Driving under an FR suspension (§4510.16);
 - Failure to reinstate license (§4510.21); or
 - During an optional impoundment.

Presumably, when privileges to drive another vehicle are granted, restricted plates remain optional.

5. Expanded Uses. Restricted plates are more common under S.B. 123.

- a. Optional Use.** The court may require the plates anytime it grants driving privileges under a license suspension (§4510.021(C)).

b. Mandatory OVI Use. A vehicle driven by an offender must bear restricted plates as a condition of driving privileges for most OVI suspensions (see pp. 18 & 42-43).

6. Employment Exception. An offender ordered to use restricted plates as a condition of driving privileges may drive an employer's vehicle in the normal course of business without the plates, if (§4503.231(B)(1)):

- The employer is notified of the restriction; and
- The driver carries proof of the notice.

Note: the exception doesn't apply if the offender owns the business.

7. Nonresident Exception - Repealed. Under S.B. 123, restricted plates were not required for a vehicle registered out-of-state (§4503.231(B)(2)). The vehicle had to bear a BMV decal.

- However, at DPS's request, **H.B. 230** repealed the decal requirement and former §4503.231(B)(2).

8. Not Permitted. As before, under §4503.233(D)(1), restricted plates cannot be granted if vehicle were immobilized for OVI (under §4511.195), or for DUS under an OVI suspension or DUS under an FR suspension (§4510.41).

9. Issuance, Etc. S.B. 123 retains former provisions governing issuance of the plates through deputy registrars, BMV's notice of the application to the court, petitioning the court to sell a vehicle with the plates, and penalties for driving without them, if required, or for obscuring them (see, *e.g.*, §4503.231(A) & §4507.02(B)).

P. REMEDIAL DRIVING COURSE

1. Optional Condition. A court may require an offender to complete a remedial driving course before getting a license back after *any* court suspension ends (§4510.02(C)).

- However, as noted, BMV can't give the offender a 2 point credit (against a 12 points suspension) for completing a course ordered as a condition of regaining a license after a suspension (§4510.037(C)(1)).

2. Mandatory After Points & Juvenile OVI Suspensions. As

before, a person can't retain or reinstate a license without completing a remedial driving course if the person received a 12 point suspension or a juvenile OVI suspension (former §4507.022 became §4510.038).

- §4510.038 retains other prerequisites from former law (hours of instruction in drug and alcohol effects and driver attitude, the license examination, and proof of FR.)

3. Remedial Course and Points. See pp. 37-38.

4. Driving Schools. See changes described on pp. 74-75.

Q. REINSTATEMENT FEES

After a suspension, a driver may have to pay a fee to have a license reinstated (see the definition in §4510.10(A)). Once a suspension period ends, many drivers get cited because they do not pay the fee to properly reinstate their licenses.

1. Fees Don't Change. S.B. 123 does not change the amount of reinstatement fees. They include (§4510.10(A)):

- \$425 for ALS under OVI law (§4511.191);
- \$75 for failure to maintain FR on 1st offense, \$250 on 2nd offense, & \$500 on subsequent offenses (§4509.101); and
- \$30 for weapons on school grounds (§4507.1612), chauffeur's FR suspension (§4509.81), Nonresident Violator Compact suspensions (§4511.191), and suspensions of 90 days or more when another fee is not specified (§4507.45).

2. Court Options If Can't Pay. After determining a person can't reasonably pay the reinstatement fee in a pending case, S.B. 123 allows a municipal or county court to (§4510.10(C)):

a. Payment Plans. Establish payment plans of not less than \$50 per month (§4510.10(C)(1));

b. Driving Privileges. Permit the offender to drive to work, if necessary to assure payment by a date set by the court—see **c** next (§4510.10(C)(2));

c. Extend Deadline. Extend the payment deadline for up to 180 days—coupled with b above (§4510.10(C)(2));

d. Flexibility. Modify an order if justice requires because of changed circumstances (§4510.10(D)).

e. Immunity. The person can't be prosecuted for failing to pay the fees if under a payment plan, *etc.* (§4510.10(E)).

f. Process. S.B. 123 does not otherwise specify procedures for payment plans, *etc.*

3. No License Until Paid. Under **H.B. 230**, the Registrar cannot reinstate a license “until the person has paid all reinstatement fees and complied with all conditions” of the suspension (§4510.10(B)).

- **H.B. 230** also provides that reinstatement fees “are debts that may be discharged in bankruptcy” (§4510.10(F)).

4. Failure to Reinstate. S.B. 123 moves failure to reinstate a license out of general DUS law (former §4507.02(C)) into its own section (§4510.21). As before, failure to reinstate is an M-1 with 6 points and an optional suspension up to one year (Class 7).

R. MODIFYING LONG SUSPENSIONS

Former statutes contained no formal provision to terminate long term suspensions. S.B. 123 allows courts to end life (Class 1) suspensions and Class 2 suspensions that are longer than 15 years (§4510.54).

1. Motion. The suspended driver must file a motion requesting the modification (§4510.54(A)).

2. Hearing. The court *may* hold a hearing on the motion. If scheduled, it must be held in open court within 90 days of filing (§4510.54(B)).

H.B. 52 adds these particulars (§4510.54(B)):

- *The court may deny the motion without a hearing;*
- *If so, it may consider a subsequent motion;*
- *If denied at a hearing, the court may not consider a subsequent motion;*
- *The court can't grant the motion without a hearing; and*
- *The court may grant or deny the motion after the hearing.*

3. One Shot at Hearing. In short, while a person can file more than once, the court can hear the issue only once. (§4510.54(A)).

4. Notice. If scheduled, the court must notify the petitioner and prosecutor of the hearing. The prosecutor must, in turn, notify the victim or victim's representative (§4510.54(C)).

5. Testimony. The court must afford the petitioner, prosecutor, and victim (or representative) an opportunity to present oral or written information (§4510.54(D)).

6. Petitioner's Burden. To prevail, the petitioner must show under oath (§4510.54(A)(1)-(4)):

- a. **At least 15 years** passed since the suspension began;
 - *H.B. 163 retroactively allows persons with lifetime suspensions imposed before 1.1.04 to count time prior to that date in computing the 15 year minimum.*
 - *S.B. 123 law governs any such modification.*
 - *The language is hard to find. It appears not in the body of the bill, but in Section 3 (after the repealer clause). Sec. 3 in turn amends Section 5 of S.B. 123 to accomplish this. See Sec. 5(B)(1)(c) & (B)(2).*
- b. **No felony** conviction during the 15 years;
- c. **No moving violation** under Federal, Ohio, or local law in the 15 years;
- d. **No DUS** under Ohio or local law in the 15 years; and
- e. **Proof of FR** meeting current standards.
- f. **If OVI.** If the suspension came from being under the influence of alcohol and/or drugs, the person also must show (§4510.54(A)(4)(a)-(c)):
 - No alcohol or drug related offense for 15 years;
 - Successful completion of appropriate treatment; &
 - No alcohol or drug abuse for a satisfactory period.

7. Court Considerations. In addition, before ruling on the motion, the court must consider (§4510.54(D)):

- The person's driving record;
- The nature of the offense and its impact on the victim; and

- Whether the offender committed another offense while under suspension, and whether the offense is relevant.

8. Additional Finding. The court may modify or terminate the suspension if it finds the person eligible and that allowing the person to drive is unlikely to present a danger (§4510.54(D)).

9. Post-Hearing Duty to Victim. After a decision, the prosecutor must inform the victim or representative (§4510.54(D)).

10. Effect of Subsequent Conviction. On a subsequent conviction for any moving violation carrying a possible suspension, the court may reimpose the long suspension (§4510.54(E)).

S. JUVENILE SUSPENSIONS

Discussed under “Juvenile Traffic Law” in **Part IX**.

T. BMV’S \$15 PROCESSING FEE

1. The Fee. Offenders must pay a \$15 processing fee for suspensions imposed for failing to appear on a citation, failure to satisfy a judgment, failure to comply with the law or the court’s order in such a case, outstanding arrest warrant, etc.

- **Forfeit.** Under **H.B. 230**, the court must “forfeit” (rather than suspend) the license in these situations.

2. Pay BMV Directly. Formerly, courts collected the fee and then forwarded the money to BMV.

- S.B. 123 retains the fee, but instead requires the offender to pay BMV directly (see §2935.27(D), alternate securities; §2937.221(A), license as bond; §4503.03, outstanding arrest warrant; & §4510.22, suspension for certain traffic offenses).
- Under **H.B. 230**, the Registrar cannot restore the license until the fee is paid.

U. REGISTRATION BAN

As before, a judge imposing a suspension may prohibit an offender from registering, renewing, or transferring a vehicle during the suspension period (§§2935.27 & 4507.16(B)).

- This did not move to new Ch. 4510, since it deals more with

licensing, but it seems to apply to any suspension. And it remains a mandatory ban when the suspension is for failing to appear, *etc.*

V. IMMOBILIZING AND FORFEITING VEHICLES

A. WHEN AUTHORIZED

The Revised Code requires arresting officers to seize and immobilize (and sometimes requires courts to forfeit) a vehicle involved in these offenses:

- Repeat impaired driving (see **Part III** for the particulars);
- DUS (see **Part IV**);
- Driving under an OVI suspension (see **Part III L**);
- Driving under an FR suspension (see **Part VI B**); and
- Wrongfully entrusting a vehicle to another (see **D** below).

B. FORMERLY: BROAD SEIZURE, BROAD DEFENSE

1. Broad Seizure. Previously, any vehicle involved in these offenses could be seized and possibly immobilized or forfeited, irrespective of whether the car belonged to the alleged offender.

2. Broad Defenses. Conversely, an “innocent owner’s” vehicle could not be forfeited (§4503.235). Once claimed, the defense was difficult to rebut since the prosecution had to prove a negative—that the person did not know the other was not allowed to drive.

C. NEW NARROW SEIZURE

Under S.B. 123, a vehicle can’t be seized, immobilized, or forfeited unless the offender owns the vehicle (§§4503.233, 4503.234, 4510.235, 4510.14, 4510.41, 4511.193, 4511.195, & 4511.203).

1. Exception. The Code authorizes 3rd party seizures for persons convicted of wrongfully entrusting a vehicle (see **D** next).

2. Registration = Ownership. S.B. 123 says a person owns a vehicle if it is registered in the person’s name at the time of the violation (§4511.203(H)).

- Otherwise, procedures are largely the same as before.

D. NEW WRONGFUL ENTRUSTMENT

The change just described was designed to protect innocent 3rd parties. However, those who knowingly loan a car to a person who shouldn't drive face penalties—including possible immobilization, plates' impoundment, and forfeiture—under the new wrongful entrustment statute.

1. Repeals “Innocent Owner” Defense. Since S.B. 123 eliminates most 3rd party seizures, S.B. 123 repealed the “innocent owner” defense (former §4503.235 & §4503.236).

2. Tougher Wrongful Entrustment. S.B. 123 instead consolidates and beefs up “wrongful entrustment” (formerly §4507.33):

a. The Crime. A person cannot permit another to drive the vehicle if the person knows, or has reasonable cause to believe (§4511.203(A)(1)-(4)):

- **Unlicensed.** The driver doesn't have a valid license;
- **DUS.** The driver's license is suspended or canceled;
- **No FR.** The driver doesn't have insurance or other financial responsibility; or
- **OVI.** The driver is impaired under §4511.19 or a substantially equivalent municipal ordinance.

TABLE 8 SHOWS WRONGFUL ENTRUSTMENT PENALTIES.

b. Presumptions. S.B. 123 has rebuttable presumptions (*prima facie* evidence) that the alleged offender knows or reasonably should know of the driver's infirmity as follows (§4511.203(B)(1)-(3)):

- **To Show Unlicensed or No FR.** If the alleged offender and driver live in the same household and are related by blood or marriage.
- **To Show DUS.** If the alleged offender and driver reside in the same household and the former has reasonable cause to believe that the driver has been charged with or convicted of a violation that could lead to a suspension.
- **To Show OVI.** If the alleged offender is in the vehicle at the time of the offense.

c. Relevance to Civil Cases. Note, however, S.B. 123 provides that a conviction under this section is not admissible as evidence in a civil suit (§4511.203(G)).

d. Penalties. It's an M-1 with a "mandatory" Class 7 (up to 1 year) suspension (see the note on p. 32), and:

i. If the vehicle is registered in the offender's name, the court must order (§4511.203(C)(1)-(3)):

- **1st Offense:** Vehicle immobilization and plates impoundment for 30 days under §4503.233;
- **2nd Offense:** Vehicle immobilization and plates impoundment for 60 days;
- **3rd Offense:** Vehicle forfeiture under §4503.234. If vehicle's title is transferred, the court must order a fine equal to the vehicle's book value.

ii. If Forfeited: BMV must ban the offender from registering or transferring a vehicle for 5 years, unless the court terminates the forfeiture (§4511.203(E)).

e. FR for Early Release. If a court immobilizes the vehicle, it cannot release it before the 30 or 60 day period ends, unless current FR proof is shown (§4511.203(D)).

f. Dealers' Exception. The section does not apply to motor vehicle rental dealers or motor vehicle leasing dealers, as defined in §4549.65 (§4511.203(F)).

E. INNOCENT PARTY SEIZURES: GOVERNMENT PAYS

1. General Rule. In addition to paying an immobilization fee when a vehicle is seized, the vehicle owner was charged for costs incurred in removing and storing the immobilized vehicle (see *e.g.* former §4507.38(C)(2)(a) & (F)).

- This formerly applied even if the owner was not the offender.

2. Limited to Owner/Offender. The general rule still applies if the offender owns the vehicle (§4503.233(E)(1) & §4510.41(B)(2)).

3. Otherwise. The court must order the entity that employs the seizing law enforcement agency to pay all expenses incurred in moving & storing the vehicle if an "unauthorized" impoundment

occurs (§4510.41 & §4511.195 replace former §4507.38).

4. Scope. The change seems to cover vehicle and plates seized for these State offenses and their municipal equivalents:

- a. Administrative License Suspension** - §4511.191 & §4511.195(B)(1) & (D)(4);
- b. Repeat OVI** - §4511.19 and 4511.195(B)(1) & (D)(4);
- c. Driving Under an OVI Suspension** - §4510.14 and §4510.41(B)(1) & (D)(4);
- d. Driving Under an FR Suspension** - §4510.16 and §4510.41(B)(1) & (D)(4); and
- e. Wrongful Entrustment** - §4511.203 and §4510.41(B)-(1) & (D)(4).
- f. DUS?** S.B. 123 does not instruct the arresting government to pay moving and storage costs in DUS cases.
 - However, the same rule seems to apply since the last sentence of §4503.233(A)(5), which covers DUS under §4510.11, was amended to strike “vehicle owner” and insert “offender” in stating who can be assessed removal and storage costs.

VI. FINANCIAL RESPONSIBILITY

Drivers must maintain proof of financial responsibility (FR)—typically insurance—for registered vehicles. Failure to do so subjects the driver to civil penalties including license suspensions. FR law reflects the new suspension classes and broader driving privileges under S.B. 123.

A. FAILING TO MAINTAIN PROOF OF FR

1. Suspension Periods. Failing to maintain proof of FR carries a BMV license suspension.

- a. No Change on 1st & 2nd Offenses.** S.B. 123 classifies the former 90 day suspension on 1st offense in Class E (3 months). It puts the 1 year suspension for a 2nd offense in 5 years in Class C (1 year) (§4509.101(A)(2)(a) & (b));
- b. 3rd Offense in 5 Years.** S.B. 123 increases the suspension for the 3rd offense from 1 year to Class B (2 years) (§4509.101(A)(2)(c)).

2. Privileges During Suspension. Former law prevented driving privileges during the first 30 days of the suspension (repealed §4509.105). Under S.B. 123, the court—rather than BMV—may grant privileges during this BMV suspension as follows:

- a. 1st Offense.** A court may grant privileges on 1st offense, without waiting 30 days, if the driver provides proof of FR (§4509.101(A)(2)(a));
- b. 2nd Offense in 5 Years.** A court may grant privileges on a 2nd offense in 5 years, with proof of FR, but not during the first 15 days of the suspension (§4509.101(A)(2)(b)).
- c. No Privileges.** The court can't grant privileges on any subsequent offense in 5 years (§4509.101(A)(2)(c)).
- d. Procedures.** S.B. 123 doesn't otherwise provide guidance granting privileges during this suspension.

B. DRIVING UNDER AN FR SUSPENSION

TABLE 5 SHOWS DUFRS PENALTIES.

1. Basic Penalties. S.B. 123 carries over the basic penalties for DUFRS (§4510.16 replaces §4507.02(B)(1) & 4507.99(C)):

- M-1; mandatory 30 or 60 day vehicle immobilization; plates impoundment, & on 3rd and later offenses, vehicle forfeiture.

2. Key Changes.

a. Mandatory Suspension. S.B. 123 places the “up to 1 year” suspension in Class 7 (up to 1 year) and makes it “mandatory” (§4510.16(B)(1)).

b. No 3rd Party Forfeitures. A vehicle can be seized and forfeited for the offense only if it is registered in the offender’s name (§4510.16(C)) (see pp. 52-55).

3. Municipal Violations. S.B. 123 consistently references violations of “substantially similar” municipal ordinances as prior offenses that enhance penalties (§4510.16(B)(2)).

C. AFFIRMATIVE DEFENSES & REGISTRAR TERMINATION

1. When Registrar May Terminate Suspension. While the Registrar sometimes ends FR suspensions in the interest of fairness, there was no formal review mechanism in former law.

Under S.B. 123, BMV may terminate a suspension imposed for driving without proof of FR (under §4509.101(A)(1)) if the Registrar finds, by clear and convincing evidence (with or without a hearing), all of the following (§4509.101(L)):

a. Established Track Record. The owner customarily maintains proof of financial responsibility;

b. Good Excuse. FR was not in effect for the vehicle on the date in question because of one of the following:

- i.** The vehicle was inoperable;
- ii.** The vehicle was operated only seasonally, and the date in question was outside the operating season;
- iii.** Someone other than the driver or owner was responsible for the lapse; or

iv. The failure was caused by excusable neglect under circumstances unlikely to recur and does not show intent to evade FR requirements.

c. Number of Requests. S.B. 123 limited the Registrar's termination power to the applicant's 1st request. **H.B. 230** kept the limit for iii and iv above, but leaves unlimited the number of requests that may be made under i and ii above.

2. Affirmative Defenses. In addition, S.B. 123 contains two affirmative defenses to driving under an FR suspension (§4510.04):

a. Emergency. The alleged offender drove because of a "substantial emergency" and there was no other person reasonably available to drive (§4510.04, 1st ¶).

b. Random FR Check. When the basis for prosecution is failure to respond to a random FR verification request (under §4509.101(A)(3)(c)), if the person can show that he or she had FR at the time of the request (§4510.04, 2nd ¶).

D. HOW LONG TO FILE PROOF OF FR

Formerly, after an FR suspension, a driver had to file proof of financial responsibility with BMV for 5 years. §4509.45 sets out ways to provide the proof. Typically, the offender purchases high risk insurance.

S.B. 123 shortens the proof period for first offenders.

1. 3 Years. If the suspension is for 6 months or less (*e.g.*, the Class E suspension on first failure to maintain proof of FR), proof of FR must be filed with BMV for 3 years (§4509.45(B)).

2. 5 Years. If the license has been suspended for 1 year or more (Class A, B, or C suspensions), proof of FR must be filed with BMV for 5 years, as before (§4509.45(B)).

E. OTHER CHANGES

1. Other Suspensions Classified. BMV can suspend drivers' licenses for other FR-related offenses. Formerly, these suspensions lasted until the offender complied with conditions. S.B. 123 neutrally converts them to Class F (until conditions are met):

- Fail to deposit FR security (§4509.17);

- Default on agreement to pay accident claims (§4509.24);
- Non-resident FR suspension (§4509.291);
- Judgment debtor suspension (§4509.37);
- Suspension until judgment is settled, which used to say “7 years” or until compliance (§4509.40); and
- Fail to make judgment installment payments (§4509.42).

2. Repeals. The above changes led to repeals of former §§4509.105, 4509.31, 4509.32, & 4509.99.

VII. SPEEDING

Speed limits do not change. But S.B. 123 made key changes in penalties.

A. MM ON 2ND OFFENSE; PRIORS CHANGE

1. Former Law. Speeding was an MM unless the driver had prior moving violation(s) within one year of the offense. With one prior moving violation in a year, it became an M-4. With 2 or more priors, it became an M-3 (§4511.99(D)(1) & (2)).

2. New Law. S.B. 123 reduces the penalty for a 2nd speeding in a year to an MM. It reduces the penalty for 2 priors in a year from M-3 to M-4. With 3 or more priors, it remains an M-3 (§4511.21(O)). (See the table below.)

3. “Predicate: Priors: To enhance speeding penalties, prior offenses must be for *speeding*, not for other moving violations. Parts of the State did that before S.B. 123. However, much of the State counted *any* moving violation to enhance speeding penalties.

- **Note:** However, while other offenses no longer enhance speeding penalties, speeding is a “predicate” offense that enhances penalties for other offenses.

LIST 7 IN PART XIII SHOWS “PREDICATE OFFENSES”.

4. Exceptions. As in former law, a *first* speeding offense in a year is an M-4 if the driver goes faster than (former §4511.99(D)(2) became new §4511.21(O)(2)):

- 35 mph in a municipal business district;
- 35 in a school zone during restricted hours; or
- 55 elsewhere in a municipality.

Double fines in construction zones also remain (§4511.99(D)(3) becomes new §4511.21(O)(3)).

5. Comparison. This table compares old and new speeding law.

| SPEEDING PENALTIES | | | |
|---|----------------------|---|----------------------|
| OLD LAW - §4511.21 & §4511.99(D) | | NEW LAW - §4511.21(O) | |
| <i>Moving Violations in a Year</i> | Penalty Level | <i>Speeding Violations in a Year</i> | Penalty Level |
| No Prior | MM* | No Prior | MM* |
| 1 Prior | M-4 | 1 Prior | MM |
| 2 Priors | M-3 | 2 Priors | M-4 |
| 3 or More Priors | M-3 | 3 or More Priors | M-3 |

* The 1st offense can be an M-4 under former and new law for certain school zone and municipal violations (see 4 above).

6. Related Offenses. As before, “speeding” also includes:

- Failure to maintain an assured clear distance (§4511.21);
- Substantially similar municipal ordinances (§4511.21);
- Speeding where a speed limit was established on private roads serving at least 20 dwelling units (§4511.211).

B. POINTS FOR SPEEDING

“Points” are assigned against a driver’s license for various offenses. A driver faces a Class D suspension for accruing 12 points in 2 years (see pp. 36-38). S.B. 123 simplifies speeding points and makes them more proportionate to other offenses.

1. Problems in Former Law.

a. Tricky Math. Calculating points for speeding was hard. Points were tied to:

- The number of prior moving violations (not just prior speeding in much of the State); and
- With a prior violation in a year, additional points accrued for every 5 MPH over the limit.

b. Same Offense/Different Points. Since points turned on various priors, two drivers traveling on the same highway at the same speed faced significantly different points.

- It was possible to earn 10 or more points for speeding, but only 6 for vehicular homicide or OVI.

2. S.B. 123 Approach. S.B. 123 ties points for speeding solely to the speed over the limit as follows (§4510.036):

a. Zero Points. No points when the person was going 10 mph or less over the limit on highways (55 mph limit or higher) or 5 mph or less over the limit in town.

- 2 points were the minimum under old law.

b. 2 Points. Most speeding offenses fall here. The exceptions are a above and c below.

c. 4 Points. Going 30 mph or more over the speed limit.

- Increases from 2 in town (with no priors).
- Simplifies highway points, which used to range from 2 to 10 or more, depending on priors.

VIII. VEHICULAR HOMICIDES, MANSLAUGHTER, & ASSAULTS

A. A QUICK LOOK AT RECENT CHANGES

1. S.B. 107. Effective in March 2000, S.B. 107 of the 123rd General Assembly, sponsored by then-Senator Bob Latta, significantly changed vehicular death and assault statutes. As recommended by the Sentencing Commission, S.B. 123:

- Increased the penalty for OVI-related aggravated vehicular homicide (AVH) from F-3 to F-2 and eliminated the need to prove recklessness in OVI cases.
- Enacted vehicular manslaughter, a new offense to cover causing a death while committing a minor misdemeanor under the Traffic Code (irrespective of legal negligence). VM is an M-2 (M-1 if DUS or with related prior(s)).
- Removed the one degree enhancement for having a prior DUS. Instead, raised the penalty by one degree if the offender was DUS at the time of the offense or had a prior conviction for a vehicular death or assault; and
- Removed minor misdemeanor traffic offenses from the involuntary manslaughter statute.

2. H.B. 52. *H.B. 52 further amended the statutes to:*

- *Increase penalties when the crimes occur in construction zones, including new mandatory prison and jail terms;*
- *Add mandatory prison terms for AVH when the victim is a peace officer or when the driver has 3 or more prior impaired driving convictions.*

B. A LONGER LOOK AT WHERE THE LAW NOW STANDS

1. Aggravated Vehicular Homicide.

a. Elements & Penalty Changes. 3 kinds of AVHs:

i. OVI-Based. If the driver is impaired by alcohol &/or other drugs, AVH is an F-2 (F-1 if DUS or with related prior(s)) (§2903.06(A)(1) & (B)(1)&(2)).

- *This came from S.B. 107. H.B. 52 did not change it.*
- *Impaired AVH carries a mandatory prison term (from the basic F-2 or F-1 range) (§2903.06(E)) and a lifetime (Class 1) driver’s license suspension.*

ii. Reckless Generally. If the driver recklessly causes a death, AVH is an F-3 (F-2 if DUS or with related prior(s)) (§2903.06(A)(2)(a) & (B)(3)).

- *This carries over from the law prior to S.B. 107.*
- *As before, reckless AVH carries a mandatory prison term (from the basic range) if the offender has a prior offense under vehicular homicide or assault law or was DUS at the time of the offense (§2903.06(E)) and a Class 2 suspension.*

iii. “Reckless Operation” in a Construction Zone. H.B. 52 *adds a third class of sorts. If the death occurs as the proximate result of committing a “reckless operation offense” while the victim was in a clearly-marked “construction zone”, AVH is an F-3 (F-2 if DUS or with related prior(s)) (§2903.06(A)(2)(b) & (B)(3)).*

- **Penalties.** *Construction zone reckless AVH carries the same penalties as reckless AVH above, including the possible mandatory prison term (§2903.06(E)).*

- **Signage.** *The construction zone penalties apply only if there is appropriate signage at the site (§§2903.06(F), 2903.08(E), 2903.081(B), 4511.98, & 5501.27)).*
 - *The lack of signage does not limit the application of other aspects AVH, VH, VM, AVA, or VA provisions (§2903.081(B), last sentence).*
- **Definitions.** *Carries over the definitions of (§2903.06(G)(1)):*
 - *“Construction zone” (§2903.06(G)(1)(c));*
 - *“Reckless operation offense” (willful or wanton disregard of safety under §4511.20 or similar municipal ordinance (§2903.06(G)(1)(d)) & §2903.08(F)(4)).*

b. New Mandatory AVH Prison Terms. H.B. 52 *calls for two additional mandatory prison terms for AVH as follows:*

i. Peace Officer Victim. *An offender convicted of any AVH must serve an additional 5 year prison term if also found guilty of a specification that the victim is a “peace officer” (§§2903.06 (A)(1)&(2), 2941.1413 [H.B. 52 version], 2929.14(D)(5), etc.).*

- **Prior & Consecutive.** *The 5 year spec. time must be served prior to, and consecutive to, the term imposed for the underlying AVH (§2929.14(E)).*
- **Juveniles.** *For a juvenile offender, the court selects a definite mandatory DYS term between 1 and 5 years (§2152.17(A)(3)).*
- **“Peace Officer”** *The bill carries over the definition in §2935.01(B).*

ii. Prior OVIs. *An offender convicted of any AVH must serve an additional 3 year prison term if the person is also found guilty of a specification that the offender previously committed three or more OVIs under §4511.19(A) or (B) or equivalent offenses (§§2903.06(A)(1)&(2), 2941.1414, 2929.14(D)(6), 2152.17(A)(2), etc.).*

- **Prior & Consecutive.** *The 3 year spec. time must be served prior to, and consecutive to, the term imposed for the underlying AVH (§2929.14(E)).*
- **No Look Back.** *There is no limit to the time a court may look back to find prior OVIs for purposes of this spec.*

- **Juveniles.** For a juvenile offender, the court selects a definite mandatory DYS term between 1 and 3 years (§2152.17(A)(2)).
- iii. Only One of Each.** *H.B. 52* further states that only one peace officer victim spec and one prior OVI spec may be imposed for offenses committed as part of the same act (§2929.14(D)(5) & (6)).
- iv. Confusion.** Both *H.B. 52* & *H.B. 163* used §2941.1413 & §2941.1414 to create new specs.
- **Both are valid.** Ultimately, one or both will be renumbered.
 - **Our Guess.** Since *H.B. 52* took effect earlier, the *H.B. 163* specs probably will move to §2941.1415 & §2941.1416.
- v. Technical.** In addition to pre-existing mandatory prison sentences for OVI-based AVH, *H.B. 52* adds the new spec to the mandatory prison terms list (§2929.13(F)(13) & (14)).

**TABLE 17 LAYS OUT AGGRAVATED VEHICULAR HOMICIDE PENALTIES.
TABLE 18 LAYS OUT AVH'S ADDITIONAL MANDATORY PRISON TERMS.**

2. Vehicular Homicide.

- a. Elements & Basic Penalties.** 2 ways to commit VH:
- i. Negligence.** As before, driving negligently and causing a death is VH (§2903.06(A)(3)(a) & (C)).
- As before, the offense is an M-1 (F-4 if DUS or with related prior(s)). As before, negligent VH (presumably when it's a felony) carries a mandatory prison term (from the basic range) if the offender has a prior offense under vehicular homicide or assault law or was DUS at the time of the offense (§2903.06(D)).
 - **Note on §2903.07:** S.B. 107 repealed §2903.07 when it merged VH into the AVH statute.

ii. **Speeding. H.B. 52** adds a violation for a death proximately caused by “a speeding offense” in a clearly-marked construction zone (§2903.06(A)(3)(b) & (C)).

- **Basic Penalties.** Construction zone speeding VH carries the same penalties as negligent VH above, including a possible mandatory prison term for felons (§2903.06(E)).
- **Mandatory Jail.** Unlike negligent VH however, the construction zone speeding aspect also carries a new mandatory jail term of at least 15 days for misdemeanor violations (§2903.06(E)).
- **“Speeding”.** “Speeding offense” means violations of §4511.21 or similar municipal ordinances (§2903.06(G)(1)-(e)).
- **Signage, Etc.** See the bullets on p. 61 regarding signage & other definitions.

TABLE 17 LAYS OUT VEHICULAR HOMICIDE PENALTIES.

3. **Vehicular Manslaughter.** S.B. 107 created the VM offense to cover MM violations of the Traffic Code (Title 45) or of substantially equivalent ordinances that lead to deaths (§2903.06(A)(4)).

- VM is an M-2 (M-1 if DUS or with related prior(s)) (§2903.06(D)).
- **H.B. 52** did not change VM law.

TABLE 17 LAYS OUT VEHICULAR MANSLAUGHTER PENALTIES.

4. **Involuntary Manslaughter.** With the creation of VM, S.B. 107 amended the involuntary manslaughter statute (§2903.04) to:

- Eliminate bootstrapping MM traffic offenses into F-3 involuntary manslaughter when a death results by placing those offenses under the new vehicular manslaughter law.
- Keep non-traffic MMs under IM law, as well as more serious offenses. It also kept the mandatory prison term for OVI-related IM.
- **H.B. 52** did not change involuntary manslaughter law.

5. **Aggravated Vehicular Assault.** If the driver is impaired by alcohol or other drugs, AVA is an F-3 (F-2 if DUS or with related prior(s)) (§2903.08(A)(1) & (B)(1)&(2)).

- This came from S.B. 107. *H.B. 52 did not change AVA law.*
- Impaired AVA carries a mandatory prison term (from the basic F-3 or F-2 range) (§2903.08(D)), but no lifetime license suspension.

6. Vehicular Assault.

a. Elements & Basic Penalties. 3 ways to commit VH:

i. Reckless. As before, VA covers driving reckless (but not impaired) driving that causes serious physical harm to a person. The offense is an F-4 (F-3 if DUS or with relevant prior(s)) (§2903.08(A)(2)(b) & (C)(1)).

- This came from S.B. 107.
- **Penalties.** Reckless VA carries a mandatory prison term (from the basic range) if the offender has a prior offense under vehicular homicide or assault law or was DUS at the time of the offense (§2903.08(D)). It does not carry a lifetime license suspension.

ii. “Reckless Operation” in a Construction Zone. *H.B. 52 added a second class of sorts. If the injury occurs as the proximate result of committing a “reckless operation offense” while the victim was in a clearly-marked “construction zone”, VA is an F-4 (F-3 if DUS or with related prior(s)) (§2903.08(A)(2)(a) & (C)(2)).*

- **Penalties.** *Construction zone reckless VA carries the same penalties as reckless VA, including the possible mandatory prison term (§2903.08(D)).*
- **Signage, Etc.** *See the bullets on p. 61 regarding signage & definitions. Both also apply here (§2903.08(E) & (F)).*

iii. Speeding. *H.B. 52 adds a violation for a death proximately caused by “a speeding offense” in a clearly-marked construction zone (§2903.08(A)(3) & (C)(3)).*

- **Penalties.** *Unlike VH, construction zone speeding VA carries different penalties than negligent VA. It*

is an M-1 with a Class 4 suspension (F-4 & Class 3 if DUS or with related prior(s)). (§2903.08(C)(3)).

- **Mandatory Prison.** As with VH, it carries a mandatory prison term from the basic range for felony violations.
- **Mandatory Jail.** Misdemeanor violations carry a mandatory jail term of at least 7 days (§2903.08(D)).
- **“Speeding”?** Oddly, the section does not define “speeding offense”. The intent probably was to use the §2903.06(G)(1)(e) definition, which covers violations of §4511.21 and similar ordinances.
- **Signage, Etc.** See the bullets on p. 61 regarding signage & other definitions that also apply here.

**TABLE 19 LAYS OUT AGGRAVATED VEHICULAR ASSAULT
& VEHICULAR ASSAULT PENALTIES.**

C. LICENSE SUSPENSIONS IN S.B. 123

1. Vehicular Homicides & Assaults. Suspensions available for the various vehicular death offenses were placed into classes with the same suspension periods as before (§2903.06 & §2903.08).

2. Vehicular Manslaughters. The suspension was neutrally converted to Class 6. However, if the offender has certain prior offenses, the suspension was placed in Class 4 (1 to 5 years). Prior law allowed a suspension of from 2 to 10 years.

- S.B. 123 reduced the suspension range so that it is not higher than for more serious vehicular death offenses.

3. Hard Suspensions. S.B. 123 moves the “hard” (mandatory) suspensions for these offenses to §4510.13(C)(3). As before, the judge can’t suspend any part of a life (now Class 1) suspension under involuntary manslaughter or vehicular homicide law.

- Nor can the judge suspend the 1st 30 days of any Class 2, 3, 4, 5, or 6 suspension imposed for other vehicular homicides and assaults (§4510.13C)(3)).

IX. JUVENILE TRAFFIC LAW

Formerly, juvenile traffic violations were handled without much regard to Title 45. S.B. 123 attempted to align juvenile traffic law with the new adult suspension classes and expanded driving privileges. Although the new language is specific, its application remains uncertain (see p. 72).

A. JUVENILE COURT SUSPENSIONS

Juvenile courts have jurisdiction over unruly children, delinquent children, and juvenile traffic offenders. A driver's permit or license suspension may be part of the disposition in any of these cases.

1. Delinquent or Unruly Children. In any delinquency or unruly case, the court may suspend the child's driving privileges to guide the child's conduct or correct the child's wayward behavior.

a. Generally. The court may suspend the juvenile's driving privileges for the "time prescribed by the court" up to age 21 (§2152.19(A) and §2151.354(A)(3) & (B)(2)).

b. Drug Abuse or Drunken Disorderly. For these offenses, the court may shorten the suspension period upon successful completion of an appropriate treatment or education program (§2152.354(A)(3) & (B)(2)).

c. School Firearm Offenses. If a juvenile were found delinquent for carrying a firearm to school under §2923.122, the court must (§2152.19(B)(1)):

- Impose a Class 4 suspension (1 to 5 years), a potential increase from former law's 1 to 3 year suspension; and
- Prohibit issuing a license to the offender during the suspension period.

2. Suspensions for JTOs. Most suspensions handed down in juvenile court are in juvenile traffic offender ("JTO") cases.

a. Generally. The court may suspend the JTO's license for "a definite period not to exceed 2 years" (§2152.21(A)(2)).

b. OVI. If a child is adjudicated a JTO for OVI, the court must impose a Class 6 suspension (3 months to 2 years), the same period as in former law. The court may terminate the suspension if the offender successfully completes an appropriate treatment or education program (§2152.21(B)).

c. Underage Drinking & Driving. For §4511.19(B) violations, the court may impose the following suspensions (§4511.19(H), moved from §4507.16(E)):

i. 1st Offense. M-4 with a Class 6 (3 months to 2 years) suspension (§4511.19(H)(1)). This is an increase from the former “60 days to 2 years” suspension.

ii. 2nd Offense in One Year. M-3 with a Class 4 (1 to 5 years) suspension.

Underage drinking and driving adjudications count as priors for purposes of future OVIs (§4511.19(G)).

3. Other Status Offenses. Suspensions increased for certain status offenses relating to alcohol (§4301.99) as follows:

a. Drinking Liquor in a Car. Violating §4301.64 increases from “6 months” to “6 months to one year”.

b. Obtaining Liquor Underage. If under 18, violating §4301.632 goes from “6 months” to “6 months to one year”.

c. Misrepresenting Age to Get Liquor. Violating §4301.634 increases from “up to 60 days” to Class 7 (up to one year) on 2nd offense and from “up to 90 days” to Class 6 (3 months to 2 years) on 3rd offense.

B. BMV SUSPENSIONS

S.B. 123 changes some juvenile-related BMV suspensions (see **LIST 3**).

1. Failure to Attend School. If a juvenile fails to attend school (as required by §3321.13), BMV must suspend the child’s driving privileges until conditions—including school attendance—are met.

- Former §4507.061 capped the suspension at age 18. S.B. 123 removes the cap (allowing it to go to 21) and places it in Class F (until conditions are met) (§4510.32(D) & (B)).

2. Motorized Bicycles. BMV must suspend moped drivers’ privileges for violations. Former §4507.167 capped this suspension at age 16. S.B. 123 lifts the cap and places it in Class F—until conditions are met (§4510.34(B) & (A)).

3. Drug Abuse or Drunken Disorderly. If a juvenile commits a drug abuse offense (under Ch. 2925) or drunken disorderly conduct (under §2917.11(B)), the BMV must impose a Class D (6 months) suspension, which it may shorten if the offender successfully completes an appropriate treatment or education program (§2152.19(B)(2) & §4510.31(B)).

- Formerly, the suspension was until age 18 or until completing the program (§4507.162(B)).

4. Age at Disposition. H.B. 230 clarified that the Registrar must impose an underage driver’s suspension even if the relevant court disposition occurs after the person turns 18 (§4510.31(A)(3)).

C. LIMITED DRIVING PRIVILEGES

As noted in the “Suspensions” chapter (Part IV), S.B. 123 expands driving privileges beyond “occupational” purposes and permits greater judicial control over licenses suspended by the BMV.

1. “Limited” Privileges. Former law allowed the court to grant “occupational” driving privileges. S.B. 123 renames them “limited” privileges and makes key changes (§4501.01(TT) & §4510.021).

a. Expanded Purposes. Generally, S.B. 123 authorizes privileges for more purposes: work, school, vocational, and medical purposes, taking a driver’s license exam, and court-ordered treatment (§4510.021(A)(1)-(3)).

b. Driving Practice Allowed. Privileges may be granted to juveniles to practice driving with a parent, guardian, or custodian, provided that the adult is licensed and sits up front with the young driver (§4510.021(D) & §4510.31(C)(2)).

2. During Repeat Offender Suspensions. As before, BMV must suspend a juvenile’s driving privileges for certain repeat offenses (listed in §4510.31(A), formerly §4507.162(A)(1)).

a. Allows More Privileges. Oddly, former law seemed to allow driving privileges on certain 3rd offenses, but not on 2nd offenses. S.B. 123 gives juvenile courts clear authority to grant limited driving privileges during BMV suspensions for most 2nd and 3rd traffic offenses (§4510.31(C)(1)).

b. No Privileges. As before, the juvenile court may not grant driving privileges during a BMV suspension for:

- i. Those convicted of their 2nd or 3rd:
 - Aggravated vehicular homicide
 - Aggravated vehicular assault
 - Failure to comply with an officer's order or signal
 - Refusal to submit to a breath test
 - Failure to stop after an accident
 - DUS for refusal to submit to a breath test or failure to appear on an OVI charge
 - Involuntary manslaughter due to OVI
- ii. Those convicted of OVI or underage drinking and driving;
- iii. Those convicted of one of the other traffic offenses listed in §4510.31(A)(1)(a) and who also have been convicted, within the past 6 years, of at least 3 violations of:
 - OVI, including underage drinking and driving
 - Involuntary manslaughter due to OVI
 - Aggravated vehicular homicide due to OVI
 - Aggravated vehicular assault due to OVI
 - Any other aggravated vehicular homicide where the trier of fact found the offender was under the influence
 - Any other aggravated vehicular assault where the trier of fact found that the offender was under the influence
 - Any substantially similar municipal ordinance (§4510.31(C)(3), citing §2919.22(G) predicate offenses).

3. Earlier Effective Date. The juvenile driving privileges changes took effect 4.3.03, under H.B. 490 (§ 6).

D. RESTITUTION IN JTO CASES

H.B. 52 does not authorize restitution for a victim of an MM-level JTO case. The bill also refines the scope of restitution for other situations (§§2152.02(L) & (DD), 2152.20, & §2152.21) (see pp. 73-74).

E. CONFUSION RE TITLE 45 & JTO DISPOSITIONS

1. Legislative Intent. Juvenile drivers were not discussed much in the legislative hearings on S.B. 123.

- The General Assembly may have assumed the S.B. 123 changes to the Traffic Code apply to juvenile drivers.
- However, S.B. 123 left unclear whether all or some Title 45 sanctions actually apply in juvenile court.

2. Confusion. Here's why area is ripe for clarifying legislation:

- Juvenile courts exist so that juveniles are not treated the same as adult offenders. The General Assembly applied this reasoning to violent crimes as well as less serious offenses such as speeding and failing to yield. Thus, applying Title 45 wholesale to JTOs may be counterintuitive to juvenile courts.
- Title 45 does not neatly harmonize with the dispositions authorized for JTOs in juvenile courts (§2152.21). Neither former law nor S.B. 123 gives guidance on reconciling them.
- Some Title 45 sanctions cannot be applied in juvenile courts, including mandatory jail time for OVI and the like. Likewise, some traffic statutes do not make much sense in the juvenile context, such as reporting points toward a 12-point suspension (a juvenile probationary licensee faces a suspension much earlier).

F. SECTIONS MOVED WITHOUT SUBSTANTIVE CHANGE

- 1. Mandatory BMV Suspensions.** The list of offenses for which the BMV must suspend a license moves from §4507.162(A) to §4510.31(A)(1)(a).
- 2. Driver Improvement Programs.** Standards and procedures for such programs move from §4507.162(F) to new §4510.311.

X. OTHER SENTENCING CHANGES

A. MINOR MISDEMEANOR FINE INCREASE

H.B. 490 increased the maximum MM penalty from \$100 to \$150 and allowed the court to order up to 30 hours community service in lieu of, or in addition to, a fine (§2929.28(A)(2)(b)).

B. RESTITUTION IN TRAFFIC CASES

For more detailed coverage, see our Misdemeanor Sentencing Primer.

1. Scope Under H.B. 490. H.B. 490 extended MM penalties beyond fines to include financial sanctions such as restitution and reimbursements (§2929.28(B) & §2901.02). But S.B. 123 left confusion as to its scope, particularly regarding restitution in minor traffic cases when a collision occurs.

2. Minor Traffic Cases. *To avoid unnecessary court hearings, H.B. 52 specifies that restitution is not available in:*

- *MM cases, or other cases waivable under Traffic Rule 13 (most 1st & 2nd moving violations) in adult courts (§2929.28(A)(1)); or*
- *MM level cases in juvenile court (§2952.20(A)(3) & §2152.21(A)(4)).*

3. Economic Loss.

- **More Losses Covered Generally.** If available restitution is based on the victim's "economic loss". H.B. 490 carries over S.B. 2's broader definition of that term, which allows repayment of loss of income, medical costs, funeral expenses, *etc.* (§2929.28(A)(1) 1st ¶ & §2929.01(M)).

- **But Not Non-Economic Losses.** *H.B. 52 makes clearer that restitution isn't available for "non-economic" losses (see §§2929.01(M), 2929.28(A)(1), 2929.18(A)(1), & 5152.20(A)(3)). This was done so that restitution cannot be read to preempt either party's rights under civil law.*

- *"Non-economic loss" means non-pecuniary harm suffered by a crime victim from restitution, including but not limited to (§2929.01(WW)):*
 - *Pain and suffering;*
 - *Loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education;*
 - *Mental anguish;*
 - *Any other intangible loss; and*
 - *Punitive or exemplary damages.*

4. Restitution Is Optional. *H.B. 52 makes pellucid that*

restitution is an *option* for the court, not a mandate (§§2929.28(A), §2929.18(A)(1), 2152.20(A)(3)).

5. Felons & Juveniles Too. S.B. 57 clarified that “economic loss” applies in both misdemeanor and felony cases.

- **H.B. 52** assures that these changes also apply in juvenile cases (§§2152.02(L) & (DD), 2152.20, & §2152.21).
- For simplicity, **H.B. 52** blends restitution under juvenile traffic offender law (§2152.21) into the broader restitution provisions of §2152.20.

C. PERSONAL MOBILITY DEVICES

Consistent with S.B. 123, the bill moved the penalty for “electric personal assistive mobility device” offenses from §4511.99 to the section stating the offense (§4511.512).

- Covers the gyroscopic scooter variously called “Segway” or “IT”.

XI. DRIVER TRAINING SCHOOLS

Over the past decade, driver training schools have become the driver’s education program in Ohio. S.B. 123 tightens standards for driving school operators and instructors and toughens related penalties.

A. OPERATORS

Operators of driver training schools follow standards set by the Director of Public Safety, including standards for licensure and vehicle safety.

- 1. License.** S.B. 123 makes clear that the operator must have a valid license issued by the DPS director (§4508.03(D)).
- 2. License Suspension.** Makes it a crime if an operator does not return a license after it is suspended or revoked by DPS for a Ch. 4508 violation (§4508.06(A)).
- 3. Vehicles.** Makes an operator’s failure to meet minimum standards established by DPS an offense (§4508.091(A)).
- 4. Penalties.** Violating any of these provisions is an MM. On 2nd or subsequent offense in 2 years, the violation becomes an M-4 (§§4508.03(E), 4508.06(B), & 4508.091(B)). S.B. 123 repealed the unclassified penalties in former §4508.99.

B. INSTRUCTORS

- 1. Bans Certain Offenders.** Driver training instructors must have a valid instructor’s license. S.B. 123 makes clear that DPS can’t grant an instructor’s license to:

- a. **Recent Felons.** Anyone with a felony conviction in the 10 years before applying (§4508.04(B)(1)).
 - b. **Certain Misdemeanants.** Those with an M-1 or M-2 conviction in the 5 years before application, if the offense reasonably relates to the person's fitness to be an instructor (§4508.04(B)(2)).
- 2. **Teaching Without a License.** Classifies acting as an instructor without a valid license as an M-4 (§4508.04(D)(1)).
 - 3. **Falsification.** Clarifies that knowingly making a false statement on an instructor's license application is falsification under §2921.13, an M-1 (§4508.04(C) & (D)(2)).

XII. ROAD & HIGHWAY SHOOTINGS

Early 2004 saw a spate of shootings at or near moving vehicles in the south outerbelt area of Columbus. *In H.B. 52, the General Assembly responded by increasing the M-1 penalty for shooting over roads and highways in the following situations (§2923.162(C)(2),(3), &(4)):*

- *F-3 if the shooting created a substantial risk of physical harm to a person or caused serious physical harm to property (div.(C)(2));*
- *F-2 if the shooting caused physical harm to a person (div.(C)(3));*
- *F-1 if the shooting caused serious physical harm to a person (C)(4)).*

XIII. MISCELLANY

A. SURETY IN LIEU OF APPEARANCE

- 1. **Former Law—Appearance.** A person issued a citation who did not have a valid driver's license had to appear in court to set a reasonable security for future appearances in court.
- 2. **New Law—Surety.** Under S.B. 123, courts may establish a reasonable surety for unlicensed persons by local rule, rather than require a court appearance to set bond (§2935.27(A)(2)).
- 3. **Penalty.** S.B. 123 makes failure to appear after using a driver's license as bond subject to a Class 7 suspension (up to 1 yr.). Former law declared a "forfeiture" (§2937.221(A)). [Also, note that the \$15 processing fee is now payable directly to BMV (see the related discussion in **Part IV T**).

B. LIMITED RECORD SEALING

- 1. **Prior Offenses.**
 - a. **Precluding Expungement.** Generally, only a "first offender" may have conviction records expunged. A person with a prior OVI or felony traffic offense is ineligible for expungement because of the prior conviction.
 - Under S.B. 123, DUS related to an OVI conviction and DUOVIS

also count as prior offenses.

b. Priors Allowing Expungement. The Revised Code defines certain offenders as “first offenders” despite prior crimes. Other than those listed above, traffic violations do not preclude later expungement (§2953.31(A)).

- A person with a prior DUS can be a “first offender” for expunction purposes. However, the DUS itself cannot be sealed (§2953.36).

2. S.B. 13. Unrelated to traffic law, the General Assembly added an amendment to soften the impact of changes under S.B. 13 (123rd G.A.).

- **Limits.** Effective 3.23.00, S.B. 13 added these offenses to those ineligible under sealing law: offenses of violence (including misdemeanors other than assault, inciting to violence, riot, and inducing panic); felonies and M-1s when the victim was under age 18; and any F-1 or F-2.
- **Pending Petitions Saved.** In Section 7, S.B. 123 permits a person who filed such a petition on or after 3.31.99, and who withdrew the petition by 3.31.01, to refile by 3.31.04. In determining whether to grant the petition, the reviewing court must apply pre-S.B. 13 law. This opportunity expires 1.1.05.

C. HANDICAP PARKING VIOLATIONS

S.B. 123 reduces the “\$250 to \$500” penalty for handicap parking violators to \$0 to \$100 if the violator proves he or she had a valid placard or handicapped plates that was not displayed (§4511.69(F) & (J)(2)).

D. TOWNSHIP POLICE JURISDICTION

As a rule, moving violations on State highways are enforced by the Highway Patrol and sheriffs’ departments. One exception is that township police have jurisdiction on State highways when the township’s population exceeds 60,000. **H.B. 163** *changed the population minimum to 50,000 (§4513.39).*

E. CDL EXCEPTION

Under a strict reading of former law, a person driving a “U-Haul” type rental vehicle had to have a commercial driver’s license (§4506.02).

- S.B. 123 adds vehicles used for the occasional transport of personal property to exemptions to CDLs, while the vehicle is being so used (§4506.02(A)(8)). This effectively allows a person to use such rental vehicles without a CDL.

F. COMPETENCY

1. Competency Suspension. As before, BMV may suspend the license of a person adjudicated incompetent to drive. The Class F suspension lasts until the person’s competency is restored (former §4507.161 becomes §4510.23).

2. Competency Exam. A separate provision allows the Registrar to test a person with 7 points or whom the Registrar has good cause to believe is not competent to drive. Formerly, BMV had to give notice at least 5 days before the test (§4507.20). S.B. 123 keeps the provision, but requires at least 30 days’ notice. S.B. 123 removes reference to the points law.

- In short, the Registrar may, for good cause and on 30 days notice, examine a licensee to determine competency to hold the license, irrespective of points (§4507.20).

G. PUBLIC SAFETY VEHICLE RIGHT-OF-WAY

In yielding the right-of-way to emergency vehicles, the driver must immediately pull to the right edge or curb. S.B. 123 adds this is to be done "if practical" (§4511.45).

H. AUTO DEALERS

S.B. 123 makes a minor change in auto dealer law. As before, a franchiser may not violate certain statutes. S.B. 123 also makes a “prospective transferee” liable for the offenses (§4517.64(A)(2) & (B)).

I. TRAINING

S.B. 123 instructs the Attorney General to work with DPS and the Sentencing Commission to develop, print, and distribute training materials to implement the bill (§6). The bill does not make an appropriation. You are reading and, no doubt, enjoying the Sentencing Commission’s contribution.

XIII. LISTS

This part lists Revised Code sections affected by S.B. 123. The primer covers substantive changes to these sections (if any) in context above. Here’s what you will find in the ensuing pages:

- List 1:** Sections renumbered by S.B. 123
- List 2:** Court-ordered license suspensions
- List 3:** BMV-ordered license suspensions
- List 4:** Suspensions with changed durations under S.B. 123
- List 5:** Penalties moved by S.B. 123
- List 6:** Other sections with conforming amendments
- List 7:** Enhancing prior offenses

What “T” Means - While S.B. 123 was large, much of it contains non-substantive changes that resulted from classifying suspensions, renumbering sections, and merging penalties with offenses. In the process, various other mechanical amendments were made to these sections. A **T** in the list indicates technical changes, including:

Adding or updating cross-references; renumbering or relettering divisions within sections; specifying the effective date of earlier amendments; grammar, spelling, and style changes; making language gender neutral; changing from “OMVI” to “OVI”; recognizing the addition of blood serum or plasma standards in OVI law; consistently using “suspend” and “cancel” in lieu of other terms in driver’s license suspension law; and classifying suspensions based on the new template.

Most sections discussed above also contain these types of technical changes.

List 1: SECTIONS RENUMBERED BY S.B. 123

| New Section | Topic | Old Section |
|--------------------|--|--|
| §2921.331 | Fleeing or eluding a police officer | §4507.166 |
| §4501.34 | Registrar's records & proceedings T | §4507.25 |
| §4501.351 | Order of Registrar subject to change | §4507.26 |
| §4501.36 | Change of Registrar's order by appeal T | §4507.27 |
| §4501.37 | Interference of BMV by a court T | §4507.28 |
| §4501.38 | Prosecuting attorney to assist Registrar T | §4507.29 |
| §4510.01 | Suspension law definitions | Various (some new) |
| §4510.02 | Classes of suspensions | New |
| §4510.021 | Driving privileges T | §4507.16(F)(2) |
| §4510.03 | Court records/traffic abstracts | §4507.021(A) ¶1, (B), (C) ¶1, & (D)(1) |
| §4510.031 | Abstracts in Federal cases | §4507.021(A), (B), & (D) |
| §4510.032 | Same: dismissed/reduced/juvenile cases | §4507.021(C)(2) & (D)(2) |
| §4510.034 | Same: 5-yr. registration ban | §4507.021(C)(3) |
| §4510.035 | Records noncompliance penalty | §4507.021(E) |
| §4510.036 | Points against license | §4507.021(F)-(I) |
| §4510.037 | Points penalties & appeals | §4507.021(J)-(O) |
| §4510.038 | Conditions-return of license T | §4507.022 |
| §4510.04 | FR affirmative defense | New |
| §4510.05 | No longer suspension for muni. violation | §4507.1611 |
| §4510.06 | Federal Assimilative Crimes T | §4507.1610 |
| §4510.07 | Municipal suspension same T | §4507.1613 |
| §4510.10 | Reinstatement fee options | New |
| §4510.11 | Driving under suspension | §4507.02(B) & §4507.99(A) & (C) |
| §4510.12 | Driving without valid license | §4507.02(A)(1)&(3) & |
| §4507.99(D) | | |
| §4510.13 | OVI suspensions; privileges | §4507.16(E)-(L) |
| §4510.14 | Driving under OVI suspension | §4507.02(D)(2) |
| §4510.15 | "Reckless" suspension T | §4507.34 |
| §4510.16 | Driving under FR suspension | §4507.02(B)(1) & |
| 4507.99(C) | | |
| §4510.161 | Vehicle immobilization T | §4507.361 |
| §4510.17 | Drug offense suspensions | §4507.169 |
| §4510.21 | Failure to reinstate license | §4507.02(C) |
| §4510.22 | FTA or unpaid fine suspension T | §4507.168 |
| §4510.23 | Suspension for incompetence | §4507.161 |
| §4510.31 | Juvenile suspensions T | §4507.162(A)-(E) |
| §4510.311 | Juvenile driver programs T | §4507.162(F) |
| §4510.32 | Fail to attend school suspension T | §4507.061 |
| §4510.33 | License – violate liquor laws T | §4507.163 |
| §4510.34 | Motorbike license suspension T | §4507.167 |
| §4510.41 | Seizure of vehicle on arrest | §4507.38 |
| §4510.43 | Immobilizing & disabling devices | §4511.83 |
| §4510.44 | Immobilizing/disabling device offenses | §4511.83(D)-(E) |
| §4510.52 | Reissue on fee payment T | §4507.54 |
| §4510.53 | Reissue after OVI suspension | §4507.55 |
| §4510.54 | Modify long/life suspension | New |
| §4510.61 | Interstate license compact | §4507.60 |
| §4510.62 | License compact definition T | §4507.61 |
| §4510.63 | Administer/enforce compact T | §4507.62 |
| §4510.64 | Compact administrator expenses T | §4507.63 |

| | | |
|-----------|---------------------------------------|-----------|
| §4510.71 | Nonresident violator compact | §4511.95 |
| §4510.72 | Compact reinstatement fee T | §4511.951 |
| §4511.203 | Wrongful entrustment T | §4507.33 |
| §4511.75 | Suspension for school bus violation T | §4507.165 |

List 2: COURT SUSPENSIONS

A suspension imposed by a court is for a definite period from the following ranges (§4510.02(A)):

Class 1 – life; **Class 2** - 3 years to life; **Class 3** - 2 to 10 years; **Class 4** - 1 to 5 years; **Class 5** - 6 months to 3 years; **Class 6** - 3 months to 2 years; **Class 7** - not more than 1 year. **U** means the suspension remains unclassified.

| New Section(s) | Old Section(s) | Reason for Suspension | Old Range | New Class or Range |
|--|--------------------------------|------------------------------------|---------------------------------------|--|
| §2151.354 | Same | Unruly child suspension | Unspecified | As set by court - U |
| §2152.19(A)(3)(l) | Same | Delinquent child suspension | Unspecified | As set by court - U |
| §2152.19(B)(1) & §2923.122 | Same | Child carrying gun to school, etc. | 12 to 36 months | Class 4 ¹ |
| §2152.19(B)(2), Ch. 2925, & §2917.11(B) | Same | Juvenile drug or drunk/disorderly | Until completes treatment program | As set by court; may end if completes treatment |
| §2152.21 | Same | Juvenile traffic offenders | 3 months to 2 years | Class 6 |
| §2903.04 | Same | Impaired invol. manslaughter | Life | Class 1 |
| §2903.06 | Same | Impaired agg. vehic. homicide T | Life | Class 1 |
| | | Reckless agg. vehic. homicide T | 3 years to life | Class 2 |
| | | Negligent vehicular homicide T | 1 to 5 years | Class 4 |
| | | Same with certain priors T | 2 to 10 years | Class 3 |
| | | Vehicular manslaughter T | 3 months to 2 years | Class 6 |
| | | Same with certain priors T | 2 to 10 years | Class 4 ¹ |
| §2903.08 | Same | Impaired agg. vehicular assault T | 2 to 10 years | Class 3 |
| | | Same with certain priors T | 3 years to life | Class 2 |
| | | Reckless vehicular assault T | 1 to 5 years | Class 4 |
| | | Same with certain priors T | 2 to 10 years | Class 3 |
| §2907.24 | Same, §4507.16(A)(3) | Soliciting sexual acts using car | 30 day to 3 years | Class 6 ¹ |
| §2919.22 | Same | Subst'l risk to kids while OVI T | Up to 90 days | Class 7 ¹ |
| §2921.331 | Same, §4507.16, & §4507.166 | Failure to heed an officer's order | 30 days to 3 years 10 yrs if death | Class 2 ¹ Class 1 ¹ |
| §2923.122 | Same | Weapon in school safety zones T | 1 to 3 years | Class 4 ¹ |
| §2925.02 | Same | Corrupting another with drugs | 6 months to 5 years | Same - U ² |
| §2925.03 | Same | Drug trafficking | 6 months to 5 years | Same - U ² |
| §2925.04 | Same | Drug manufacture and cultivation | 6 months to 5 years | Same - U ² |
| §2925.05 | Same | Providing money for drugs | 6 months to 5 years | Same - U ² |

§2925.06

Same

Steroids violations

6 months to 5 years Same - **U**²

| New Section(s) | Old Section(s) | Reason for Suspension | Old Range | New Class or Range |
|-----------------------|---------------------------------------|---|-----------------------------------|--|
| §2925.11 | Same | Drug possession | 6 months to 5 years | Same - U ² |
| §2925.12 | Same | Possessing drug abuse instruments | 6 months to 5 years | Same - U ² |
| §2925.13 | Same | Permitting drug abuse | 6 months to 5 years | Same - U ² |
| §2925.14 | Same | Drug paraphernalia | 6 months to 5 years | Same - U ² |
| §2925.22 | Same | Deception to obtain dangerous drug | 6 months to 5 years | Same - U ² |
| §2925.23 | Same | Illegally processing drug documents | 6 months to 5 years | Same - U ² |
| §2925.31 | Same | Abusing harmful intoxicants | 6 months to 5 years | Same - U ² |
| §2925.32 | Same | Trafficking in harmful intoxicants | 6 months to 5 years | Same - U ² |
| §2925.36 | Same | Illegal dispensing of drug samples | 6 months to 5 years | Same - U ² |
| §2925.37 | Same | Counterfeit controlled substances | 6 months to 5 years | Same - U ² |
| §2937.221 | Same | Use license as bond & fail to appear | Unspecified | Class 7 ¹ |
| §2951.02(G) | Same & §4507.16 | Failure to use ignition interlock T | Up to 1 year | Class 7 |
| | | Same - 2 nd offense T | Up to 5 years | Class 4 ¹ |
| §§4301.632 & .99 | Same | Obtaining liquor under age 18 | Up to 6 months | 6 months to 1 year - U ¹ |
| §§4301.634 & .99 | Same | Lie about age to get liquor-2 nd time | Up to 60 days | Class 7 ¹ |
| | | Same - 3 rd & subsequent offense | Up to 90 days | Class 6 ¹ |
| §§4301.64 & .99 | Same | Consuming alcohol in a vehicle | Up to 6 months | 6 months to 1 year - U ¹ |
| §4507.16(A) | Same (A)(1)(a) | Perjury/falsification | 30 days to 3 years | 3 months to 2 years 3 months mandatory ¹ |
| §4510.05 | §4507.1611 | Other municipal ordinances T | ≤ time per State law | Same - U |
| §4510.06 | §4507.1610 | Federal Assimilative Crimes T | Same as State law | Same - U |
| §4510.07 | §4507.1613 | Vehicular homicides, OVI, & soliciting under municipal codes T | Equivalent to State suspension | From same Class as State suspension |
| §4510.11 | §4507.99 (A) & (C) & §4507.02(B) | Driving under suspension (DUS) | Up to 1 year | Class 7 |
| §4510.12 | §4507.99(D) & §4507.02(A)(1) & (3) | Driving without a valid license: No prior violation in 3 years 1 prior in 3 yrs & expired > 6 mo. | | None Class 7 |
| §4510.13 | §4507.16(E) - (L) | OVI: See §4511.19 below | | |
| §4510.14 | §4507.02(D)(2) & §4507.99(B)(4) | Driving under OVI suspensions T | Up to 1 year | Class 7 |
| §4510.15 | §§4507.34 & .99 | Willful/wanton disregard safety T | Up to 1 year | Class 5 ¹ |
| §4510.16 | §4507.02(B)(1) & §4507.99(C) | Drive under FR suspension | Up to 1 yr. | Class 7 ¹ mandatory |

§4510.21

§4507.02(C) & .99(A) Failure to reinstate license

Up to 1 year

Class 7

| New Section(s) | Old Section(s) | Reason for Suspension | Old Range | New Class or Range |
|--|---|-------------------------------------|-----------------------------------|--|
| §4511.19(A) & (G)(1) & 4510.13(A)(2) & (5) | §4511.19, §4511.99, & §4507.16(B), (F), & (I) | OVI T | | |
| | | 1 st offense in 6 years | 6 months to 3 years | Class 5 |
| | | 2 nd offense in 6 years | 6 month mandatory | Same; 15 days no privileges |
| | | 3 rd offense in 6 years | 1 to 5 years | Class 4 |
| | | Subsequent offense(s) in 6 years | 1 year mandatory | Same; 30 days no privileges |
| §4511.19(B) & (H) | §§4511.19, 4511.99(N), & 4507.16(E) & (I) | 1 st offense in 1 year | 1 to 10 years | Class 3 ¹ |
| | | Subsequent offense(s) in 1 year | 1 year mandatory | Same; 180 days no priv's |
| | | | 3 years to life | Class 2 |
| | | | 3 years mandatory | 3 years mandatory |
| §4511.194 §4511.196 §4511.203 | New Same §4507.33 | Physical control while intoxicated | No privileges | No privileges |
| | | Public Safety Suspension (OVI case) | 60 days to 2 years | Class 6 ¹ |
| | | Wrongful entrustment | 60 days mandatory | Same; 60 days no privileges |
| §4511.251 | Same & §4511.99 | Street racing | 60 days to 2 years | Class 4 |
| | | | 60 days mandatory | Same; 60 days no privileges |
| §4511.75 §4511.77 §4549.02 | Same & §4507.165 Same & §4511.99(C) Same & §4549.99 | Stopping for school bus T | N/A | Class 7 |
| | | School bus markings | Unclear | Pre-adjudication |
| | | Hit, skip/public roads | None | Class 7 |
| §4549.021 | Same & §4549.99 | Hit, skip/private ways | Mandatory immobilization/impound | Same |
| | | | 30 days to 1 year or up to 1 year | 30 days to 1 year pre 9-22-04 & 30 days to 3 years thereafter ^{1 & 3} |
| §5743.99 | Same & §4507.16(A)(1)(f) | Cigarette tax evasion, etc. | Up to 1 year | Class 7 |
| | | | Up to 3 yrs or revoke | Up to 3 years or cancel - U |
| §4549.021 | Same & §4549.99 | Hit, skip/private ways | 30 days to 3 years | Class 5 ¹ , 6 months mandatory |
| | | | 30 days to 3 years | Class 5 ¹ , 6 months mandatory |
| §5743.99 | Same & §4507.16(A)(1)(f) | Cigarette tax evasion, etc. | 30 days to 3 years | Same- U , but 30 days mand. ¹ |
| | | | BMV suspension | Court suspension |

¹ S.B. 123 changed the potential suspension period for these offenses.

² Drug law suspensions are unclassified (6 months to 5 years) for offenses committed in Ohio, but are in Class D (6 months) for offenses committed by Ohioans in other jurisdictions (§4510.17).

³ Street racing formerly had 2 sets of penalties. See former §4507.16(A)(1)(d)'s BMV suspension and former §4511.99's court suspension. Also see footnote 9 to List 4.

List 3: ADMINISTRATIVE (BMV) SUSPENSIONS

A suspension imposed by BMV is for a definite period as follows (§4510.02(B)):

Class A – 3 years; **Class B** – 2 years; **Class C** – 1 year; **Class D** – 6 months;

Class E – 3 months; **Class F** - until conditions are met. **U** = unclassified.

| New Section | Old Section | Reason for Suspension | Old Period | New Class |
|--------------------|--------------------|--|------------------------------|------------------------------|
| §3123.55 | Same | Child support default T | Unspecified | F |
| §3123.58 | Same | Child support default T | Unspecified | F |
| §3123.59 | Same | Child support default T | Unspecified | F |
| §3123.613 | Same | CDL support default T | Unspecified | F |
| §3123.614 | Same | CDL suspension hearing T | Unspecified | F |
| §4506.10 | Same | CDL qualifications | 6 months | D |
| §4506.16 | Same | CDL impaired driving T | Various | Same ³ – U |
| §4507.14 | Same | Violating restrictions | 6 months | D |
| §4509.101 | Same | Proof of FR, 1 st offense T | ≥ 90 days | E ¹ |
| | | Same, 2 nd offense T | ≥ 1 year | C ¹ |
| | | Same, > 2 offenses T | None | B ¹ |
| §4509.17 | Same | Fail to deposit FR security | Until complies | F |
| §4509.24 | Same | Default on collision claims | Until complies | F |
| §4509.291 | Same | Non-resident without FR | Until complies | F |
| §4509.37 | Same | Judgment debtor | Until complies | F |
| §4509.40 | Same | Unpaid judgment | 7 yrs or comply | F ¹ |
| §4509.42 | Same | Judgment installment debt | Until satisfied | F |
| §4510.037 | §4507.021 | 12 points | 6 months | D |
| §4510.17 | §4507.169 | Drug Offenses | 6 months | D ² |
| §4510.22 | §4507.168 | Failure to appear or fail to pay related fine T | 30 days, then until complies | 30 days, then F |
| §4510.23 | §4507.161 | Adjudicated incompetent | Until restored | F |
| §4510.31 | §4507.162 | Juvenile 3 violations | 1 year | C |
| | (A) – (E) | Underage drinking/driving | 6 months | D |
| | | Juvenile 2 violations | 90 days | E |
| | | Juv. fail driving privileges | 1 year | C |
| | | Juv. impaired, disorderly T | Until 18 or finish program | D - program may shorten |
| §4510.32 | §4507.061 | Fail to attend school T | Unspecified, max = age 18 | F, max = 21 ¹ |
| §4510.33 | §4507.163 | Violate liquor law, license T | 1 year | C |
| §4510.34 | §4507.167 | Probationary motor bike T | Up to age 16 | F, no max. ¹ |
| §4511.191(B) | Same (E) | Implied consent, ALS T: | | |
| | | 1 st refusal in 6 years | 1 year | C |
| | | 2 nd refusal in 6 years | 2 years | B |
| | | 3 rd refusal in 6 years | 3 years | A |
| | | > 3 refusals in 6 years | 5 years | 5 years - U |
| §4511.191(C) | Same (F) | Implied consent, fail test T: | | |
| | | 1 st test over limit | 90 days | E |
| | | Fail & 1 prior OVI in 6 yrs | 1 year | C |
| | | Fail & 2 prior OVIs in 6 yrs | 2 years | B |
| | | Fail & > 2 priors in 6 yrs | 3 years | A |
| | | Implied consent/ALS-4 th refusal/6yrs T | | 5 years - U |

¹ & ² See footnotes ¹ & ² in List 2.

³ Impaired operation by a CDL holder calls for BMV to “disqualify” the person from driving for various periods, depending on prior offenses.

List 4: SUSPENSIONS WITH CHANGED DURATIONS

| OFFENSE | SECTION | OLD SUSPENSION | NEW CLASS |
|---|--|--|---|
| Child carrying gun to school | §2152.19, & §2923.122 | 1 to 3 years | 3 (1 to 5 years) |
| Vehicular manslaughter | §2903.06(B)(3) | 2 to 10 years with certain priors | 4 (1 to 5 years) with certain priors ¹ |
| Soliciting sex using vehicle | §2907.24(D) (was §4507.16(A)(3)) | 30 days to 3 years | 6 (3 mos to 2 yrs) ² |
| Subst ^l risk to child | §2919.22 | Up to 90 days | 7 (up to 1 yr) ³ |
| Fleeing, eluding, or ignoring law enforcement officer | §2921.331 (was §4507.16(A)(1)(e) & §4507.166) | 30 days to 3 years; 10 years if cause a death | 2 (3 years to life); 1 (life) if a death. <i>Both mandatory</i> ⁴ |
| Weapon in school safety zone (adult) | §2923.122 | 1 to 3 years | 3 (1 to 5 years) |
| License as bond/FTA | §2937.221 | Unspecified | 7 (up to 1 year) |
| Community control/OVI/interlock | §2951.02(J)(4) | Up to 5 years | 4 (1 to 5 years) |
| Obtaining liquor < 18 | §4301.632 & .99 | 6 months | 6 months to 1 year ⁵ |
| Misrepresenting age to obtain alcohol | §4301.634 | ≤ 60 days (2 nd offen) ≤ 90 days (subseqnt) | 7 (up to 1 yr.) 6 (3 mos-2 yrs) |
| Consuming alcohol in motor vehicle | §4301.64 & §4301.99 | 6 months | 6 months to 1 year |
| Felony using vehicle | §4507.16(A)(1)(b) | 30 days to 3 years | None ⁶ |
| Perjury or falsification to get license | §4507.16(A) (was §4507.16(A)(1)(a)) | 30 days to 3 years (30 days mandatory) | 3 months to 2 years (3 mos. mandatory) |
| FR Suspension | §4509.101 | 1 st offense: ≥ 90days 2 nd in 5 yrs: ≥ 1 year 3 rd in 5 yrs.: ≥ 1 year | 1 st : E (3 months) 2 nd : C (1 year) 3 rd : B (2 years) |
| Default on FR judgment settlement | §4509.40 | 7 years or until conditions are met | F (until conditions are met) ⁷ |
| Reckless driving | §4510.15 (was §4507.34) | Up to 1 year | 5 (6 mos-3 yrs) |
| Juvenile drug abuse or drunk disorderly | §4510.31 (was §4507.162) | Until 18 or until complete program | D (6 mos), less if complete program |
| Probationary moped license | §4510.34 (was §4507.167) | Until age 16 | Class F (until conditions are met) |
| OVI – 3 rd in 6 years | §4511.19 & §4510.13 (was §§4511.19, .99, & 4507.16(B) & (I)) | 1 to 10 years, 1 year mandatory | Class 3, but same 1 year mandatory |
| Underage Drinking & Driving | §4511.19(H)(1) (was §4507.16(E)) | 60 days to 2 years | 6 (3 mos-2 yrs) |
| Wrongful entrustment | §4511.203 (was §4507.33& .99(E)) | None ⁸ | 7 (up to 1 yr.) ⁸ |
| Street racing | §4511.251 (was §4507.16(A)(1)(d)) | 30 days to 3 years in OR up to 1 year in §4507.16 ⁹ | 30 days to 1 year pre 9.22.04, then 30 days to 3 years ⁹ |
| Hit, skip (failure to stop at collision scene) | §§4549.02(B) & 4549.021(B) (was §4507.16(A)(1)(c)) | 30 days to 3 years | 5 (6 mos to 3 yrs) <i>minimum mandatory</i> |

Footnotes are on the next page.

¹ S.B. 123 reduced the potential suspension for repeat offenders so that it does not have a higher range than the more serious vehicular homicide offenses.

² A remedial driving course must be completed before reinstatement (§4510.038), but odd language in former law about an additional “suspended jail sentence” was repealed.

³ No driving privileges for an OVI-related violation if the offender had 3 priors in 6 years, making the look-back period consistent with other OVI-related statutes.

⁴ This is a “hard” mandatory suspension; no driving privileges are allowed.

⁵ While there are other penalties, there is no suspension for obtaining alcohol between ages 18 and 21.

⁶ The offense still carries 6 points, but the suspension was repealed.

⁷ S.B. 123 requires a shorter suspension. But it may be a neutral conversion in many cases, with conditions met well before 7 years pass. In fact, since it’s possible the person could take more than 7 years to comply, the *potential* suspension is longer.

⁸ Formerly, wrongful entrustment did not carry a formal suspension. But it called for immobilization and impoundment on 1st offense and vehicle forfeiture subsequently. S.B. 123 adds a suspension and carries over the other penalties.

⁹ In former law, street racing carried different suspensions in Ch. 4507 & Ch. 4511. The offense carried a “30 days to 3 years” suspension in §4507.16(A)(1)(d) and “30 days to 1 year” in §4511.251. S.B. 123 left the offense in §4511.251(C) unclassified, but set the range at “30 days to 1 year”. *Effective 9.23.04, H.B. 163 makes the penalty in both chapters “30 days to 3 years”.* So, persons charged under §4511.251(C) between 1.1.04 & 9-22-04 face a one year maximum suspension. Thereafter, it’s 3 years.

List 5: PENALTIES MOVED

This list shows the penalty provisions merged by S.B. 123.

| Old | New | Topic |
|-------------|--------------|---|
| | | Motor Vehicle Licensing Law |
| §4503.99 | §4503.033(F) | Annual deputy registrar statements T |
| | §4503.05(B) | Noncommercial motor vehicles T |
| | §4503.061(I) | Manufactured or mobile homes |
| | §4503.066(F) | Mobile home assessable value reduction |
| | §4503.11(C) | Annual registration of motor vehicles |
| | §4503.12(B) | Transfer of ownership & registration T |
| | §4503.182(F) | Temporary tags |
| | §4503.19(B) | Certificates of registration and plates T |
| | §4503.21(B) | Display of registration and plates |
| | §4503.231 | Restricted plates T/see suspension law |
| §4503.99(D) | §4503.236(C) | Operation of immobilized vehicle T |
| | §4503.28(B) | Manufacturers, dealers, & distributors T |
| | §4503.30(B) | Display of tags by dealers |
| | §4503.301(C) | Commercial car demo tags |
| | §4503.32(B) | Special non-dealer placards |
| | §4503.34(B) | Registration by drive-away operators |
| | §4503.44(O) | Handicapped parking permits |
| | §4503.46(F) | P.O.W. vehicle registration |
| | §4503.47(B) | Vol. firefighter vehicle registration |
| | §4503.471(C) | Misrepresenting standing as firefighter |
| | | Motor Vehicle Title Law |
| §4505.99 | §4505.101(B) | Title for abandoned vehicle |

| | | |
|---|---|--|
| largely repealed | §4505.102(D) §4505.11(I)(1) §4505.11(I)(2) | Vehicle pledged for pawnbroker loan Operating with salvage title Using vehicle marked for destruction |
| Old | New | Topic |
| | §4505.111(B) §4505.15(B) | Restored motor vehicles Appointing agents to sign certificates |
| §4505.99 | §4505.17(B) §4505.18(C) §4505.19(B) §4505.20(E) §4505.21(G)(1) §4505.21(G)(2) | Motor Vehicle Title Law, Cont. Reports & records of vehicle thefts Operate or sell vehicle without title Motor vehicle title offenses T Sale for secured party without title For export without surrendering title Not yield title of exported Car, etc. |
| §4505.99 | §4505.99 | Auto title law penalties/Largely repealed. Most move to the offenses above. Only remaining provision: If a penalty is not otherwise provided, any Ch. 4505 violation still carries up to \$200, up to 90 days, or both. |
| §4506.99 largely repealed (see below) | §4506.03(C) §4506.04(C) §4506.05(B) §4506.06(B) §4506.10(E) §4506.11(D) §4506.12(E) §4506.14(E) §4506.15(B) §4506.17(N) §4506.18(B) §4506.19(B) §4506.20(C) | Commercial Driver's License Law Operation of commercial vehicles T Commercial driving without CDL T (Makes clear that knowingly giving false information is M-1 falsification) Requirements for commercial driving T Temporary CDL Physical CDL qualifications T Commercial driver's licenses Classes of CDLs T CDL validity CDL prohibitions T CDL implied consent, OVI T Notice of out of state convictions T Applicability of federal regulations T Employment of commercial drivers T |
| §4506.99 | §4506.99 | Commercial driving penalties/Largely repealed. Most move to the offenses above. Only remaining provision: If a penalty is not otherwise stated, any Ch. 4506 violation is an M-1. |
| §4507.99(F) | §4507.05(I) §4507.071(I) | Driver's License Law Temporary instruction permit violations Probationary license violations |
| §4507.99(D) | §4507.13(C) | Driver's license and its contents |
| §4507.99(G) | §4507.21(I) | False driver's practice log T |
| §4507.99(H) | §4507.30(F) §4507.31(B) §4507.321(B) §4507.35(B) §4507.36(B) | Driver's license law prohibitions T Minor operation of a motor vehicle T Minor operation of a taxi cab T Display or furnish license T False statements T |
| §4507.99(D) | §4507.52(F) | State ID card to underage person T |
| §4507.99 (H)&(J) | §4507.99 (A)&(B) | Driver's license law penalties/Largely repealed. Most move to offenses above. Only remaining provisions: (1) Catch-all if a penalty is not otherwise stated in Ch. 4507; (2) Penalty re need to prove financial responsibility. |

| | | |
|---------------------------|------------------------|--|
| | | Driving Under Suspension |
| §4507.99 (A)&(C) | §4510.11 | Driving under suspension |
| §4507.99(D) Old | §4510.12 New | Driving without valid license |
| §4507.99(C) | §4510.16 | Driving under FR suspension |
| | | Financial Responsibility Law |
| §4509.99(A) | §4509.74(B) | Failure to report accident |
| §4509.99(B) | §4509.77(B) | Fail to return license or registration |
| §4509.99(C) | §4509.78(B) | Financial responsibility penalties T |
| §4509.99(D) | §4509.79(C) | Ridesharing financial responsibility |
| §4509.99(E) | §4509.80(E) | Limousine financial responsibility T |
| | | Moving Violations |
| §4511.99 | §4511.03(B) | Emergency vehicles proceed cautiously |
| | §4511.051(B) | Pedestrians, slow vehicles on freeways T |
| | §4511.11(G) | Traffic control device specifications T |
| | §4511.12(B) | Obeying traffic control devices |
| | §4511.132(B) | Nonfunctioning signals duties T |
| | §4511.16(B) | Unauthorized signs or signals T |
| | §4511.17(B)(1)&(2) | Tampering with traffic control devices T |
| | §4511.18(D) | Possession or sale of traffic devices T |
| | §4511.20(B) | Disregard for safety on highways |
| | §4511.201(B) | Disregard for safety elsewhere |
| | §4511.202(B) | Operation without reasonable control T |
| | §4511.213(D)(1) | Passing public safety vehicles |
| | §4511.21(O) | Speeding and assured clear distance/See speeding changes |
| | §4511.211(F) | Speeding on private roads and driveways/ See speeding changes |
| | §4511.22(C) | Slow driving |
| | §4511.23(B) | Speed regulations on bridges T |
| | §4511.25(D) | Lanes of travel upon roadways T |
| | §4511.251(C) | Street racing T |
| | §4511.26(B) | Vehicles going in opposite directions |
| | §4511.27(B) | Overtaking and passing of vehicles T |
| | §4511.28(C) | Passing on the right |
| | §4511.29(B) | Driving left of center in passing |
| | §4511.30(C) | Driving left of center T |
| | §4511.31(B) | Hazardous zones T |
| | §4511.32(B) | One way highways and traffic islands T |
| | §4511.33(B) | Driving in marked lanes T |
| | §4511.34(B) | Space Between Moving Vehicles T |
| | §4511.35(B) | Divided roadways T |
| | §4511.36(D) | Turns at intersections T |
| | §4511.37(C) | Turning in roadway prohibited |
| | §4511.38(B) | Starting or backing vehicles |
| | §4511.39(B) | Turn and brake signals |
| | §4511.40(C) | Signals given by hand and arm |
| | §4511.41(C) | Right of way at intersections |
| | §4511.42(B) | Right of way when turning left |
| | §4511.43(C) | Response to stop or yield signs |
| | §4511.431(B) | Stop at crossing sidewalk |
| §4511.99 | §4511.432(D) | Stop signs for private roads T |
| | §4511.44(B) | Right of way when entering highway |

| | | |
|------------|------------------|---|
| | §4511.441(B) | Right of way to pedestrians on sidewalk |
| | §4511.45(D) | Right of way to safety vehicle/see Miscellany |
| | §4511.451(C) | Right of way to funeral procession T |
| | §4511.452(C) | Right of way to safety vehicle |
| | §4511.46(E) | Right of way to crosswalk pedestrians |
| Old | New | Topic |
| | §4511.47(C) | Right of way to blind pedestrians |
| | §4511.48(F) | Pedestrians not crossing at crosswalks |
| | §4511.481(B) | Pedestrians under the influence T |
| | §4511.49(B) | Pedestrian movement in crosswalk |
| | §4511.50(E) | Pedestrians walking along roadways |
| | §4511.51(G) | Hitchhiking; riding out of vehicle T |
| | §4511.511(C) | Pedestrians on bridges or RR crossings |
| | §4511.521(G) | Operate a motorized bicycle T |
| | §4511.53(C) | Bicycles, motorcycles, and snowmobiles T |
| | §4511.54(B) | Attaching bicycles/sleds to vehicles T |
| | §4511.55(C) | Operating bicycles and motorcycles |
| | §4511.56(D) | Equipment of bicycles |
| | §4511.57(C) | Passing on left of streetcar T |
| | §4511.58(B) | Streetcar discharging passengers |
| | §4511.59(B) | Driving/turning in front of streetcars |
| | §4511.60(B) | Driving through a safety zone |
| | §4511.61(B) | Stop signs at grade crossings |
| | §4511.62(C) | Driving across grade crossings T |
| | §4511.63(C) | Vehicles required to stop at crossings T |
| | §4511.64(C) | Slow vehicles crossing RR tracks T |
| | §4511.66(B) | Parking on highways |
| | §4511.661(B) | Leaving motor vehicle unattended |
| | §4511.68(B) | Parking T |
| | §4511.681(B) | Parking on private property T |
| | §4511.69(J) | Handicap parking violations T |
| | §4511.70(D) | Interference with driver's view T |
| | §4511.701(B) | Occupancy of trailer while in motion |
| | §4511.71(B) | Driving on closed highway T |
| | §4511.711(B) | Driving on sidewalks |
| | §4511.712(B) | Obstructing intersection T |
| | §4511.713(B) | Motor vehicles on bicycle paths T |
| | §4511.72(B) | Following a public safety vehicle T |
| | §4511.73(B) | Driving over unprotected fire hose T |
| | §4511.74(C) | Placing injurious material on highway |
| | §4511.75(F) | Stopping for school bus T |
| | §4511.76(E) | Regulation of school buses |
| | §4511.761(B)&(C) | Inspection of school buses |
| | §4511.762(C)&(D) | School buses not used for school |
| | §4511.763(B) | School bus license |
| | §4511.764(B) | Registration of school buses T |
| | §4511.77(B)&(C) | Marking of school buses |
| | §4511.771(B) | School bus flashing lights |
| | §4511.772(B) | School bus driver seat belt T |
| | §4511.78(C) | Mass transit school transportation |
| | §4511.79(C) | Driving with impaired alertness T |
| §4511.99 | §4511.81(H) | Child restraint systems T |
| | §4511.82(C) | Littering by motor vehicle operators T |
| | §4511.84(C) | Wearing headphones while driving |

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| | §4511.85(C) | Limousines and livery services |
| §4511.99 (D)(1) | §4511.99 | Motor vehicle operation penalties/Largely repealed. Most move to offenses above. Only remaining provision: If a penalty is not otherwise stated, any Ch. 4511 offense is MM on 1st offense, M-4 with one predicate traffic offense in a year, & M-3 with 2 such offenses in a year. |
| Old | New | Topic |
| §4511.991 | §4511.19(G)(1)(a) | 3 days = 72 consecutive hours for purposes of 1 st time OVI penalties |
| | | Vehicle Equipment and Loads |
| §4513.99 | §4513.02(H) | Unsafe vehicles |
| | §4513.021(G) | Motor vehicle bumper regulations |
| | §4513.03(B) | Display lighted lights |
| | §4513.04(B) | Headlights |
| | §4513.05(B) | Tail and rear registration lights |
| | §4513.06(B) | Red reflectors required |
| | §4513.07(B) | Safety lighting of commercial vehicles T |
| | §4513.071(B) | Stop lights required |
| | §4513.09(B) | Red lights or red flags required |
| | §4513.10(B) | Lights on parked vehicles |
| | §4513.11(G) | Lights on slow-moving vehicles T |
| | §4513.111(E) | Display on certain tractors |
| | §4513.12(B) | Spotlights and auxiliary driving lights |
| | §4513.13(B) | Cowl, fender, and back-up lights |
| | §4513.14(B) | Display two lit lights |
| | §4513.15(B) | Headlights T |
| | §4513.16(B) | Lights of less intensity |
| | §4513.17(F) | Number of lights permitted |
| | §4513.171(B) | Stop lights required |
| | §4513.18(B) | Lights on snow removal equipment |
| | §4513.182(C) | Lights when transporting preschoolers |
| | §4513.19(B) | Focus and aim of headlights |
| | §4513.20(B) | Brake equipment T |
| | §4513.201(C) | Brake fluid |
| | §4513.202(C) | Brake lining repair and replacement T |
| | §4513.21(B) | Horns, sirens, and warning devices |
| | §4513.22(B) | Mufflers and excessive smoke or gas T |
| | §4513.23(B) | Rear view mirrors |
| | §4513.24(D) | Windshields and wipers |
| | §4513.241(J) | Windshields and windows T |
| | §4513.242(B) | Side window decals T |
| | §4513.25(B) | Solid tire requirements |
| | §4513.26(B) | Safety glass required |
| | §4513.261(D) | Directional signals |
| | §4513.262(F) | Anchorage units for safety belts T |
| | §4513.263(G) | Seat belts |
| | §4513.27(D) | Disabled vehicle equipment |
| | §4513.28(H) | Warning devices on disabled vehicles T |
| | | Vehicle Equipment and Loads, Cont. |
| §4513.99 | §4513.29(B) | Vehicles transporting explosives T |
| | §4513.30(B) | Load extension on vehicle's left side |
| | §4513.31(C) | Securing of loads |
| | §4513.32(B) | Towing T |

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| | §4513.34(F) | Vehicles exceeding maximum specs |
| | §4513.36(B) | Resisting officer T |
| | §4513.361(B) | Present false name to law enforcement |
| | §4513.51(D) | Fail to display safety decal on buses |
| | §4513.60(G) | Motor vehicles left on private property |
| | §4513.64(B) | Abandoned junk motor vehicles |
| Old | New | Topic |
| | §4513.65(B) | Junk motor vehicle T |
| §4513.99 | §4513.99 | Vehicle loads & safety penalties/Largely repealed. Most move to offenses above. Only remaining provision: If a penalty is not otherwise stated, any Ch. 4513 offense is MM on 1st offense, M-4 with one prior related offense in a year, & M-3 with 2 such priors in a year. |
| | | Motor Vehicle Dealers |
| §4517.99(A) | §4517.02(F) | Activities requiring licenses |
| | §4517.03(J) | Places of business T |
| | §4517.19(B) | Sales of motor vehicles at wholesale T |
| | §4517.20(B) | Motor vehicle dealers T |
| | §4517.21(B) | Auction owner T |
| | §4517.22(J) | Motor vehicle shows T |
| | §4517.23(C) | Dealer change of status notification T |
| | §4517.24(B) | Dealers sharing business location T |
| | §4517.25(B) | Mileage disclosure statements |
| | §4517.26(B) | Contract for sale of motor vehicle |
| | §4517.27(B) | Regulation of manufactured home brokers |
| | §4517.40(B) | Retail installment loan discrimination T |
| | §4517.41(B) | Auto dealer coercion T |
| | §4517.42(B) | Unfair trade practices T |
| §4517.99(B) | §4517.43(B) | Confidential information |
| | §4517.44(B) | Failure to keep records |
| | §4517.45(B) | Advertising tag on motor vehicle T |
| 4517.99(A) | §4517.64(B)&(C) | Other prohibitions/D# (& general one) |
| §4517.99 | §4517.99 | Motor vehicle dealers law penalties/ Largely repealed. Most move to offenses above. Only remaining provision: If a penalty is not otherwise stated, any Ch. 4517 offense or BMV or motor vehicle dealers' board rule violation is M-4. |
| §4519.99 | | Special Vehicles Law |
| §4519.99(A) | §4519.02(F) | Snowmobiles and all-purpose vehicles |
| | §4519.05(E) | Destruction of vehicle |
| | §4519.06(B) | Registration of dealers |
| §4519.99(C) | §4519.20(C) | Snowmobiles and all-purpose vehicles |
| | §4519.22(B) | Noncomplying vehicles |
| §4519.99(D) | §4519.40(B) | Snowmobiles & all-purpose vehicles T |
| §4519.99(D) | §4519.44(C) | Licensing requirements |
| | §4519.45(B) | Maintenance of vehicles for hire |
| §4519.99(H) | §4519.52(C) | Title for new or used motorcycles, etc. |
| | | Special Vehicles Law, Cont. |
| §4519.99(F) | §4519.66(B) | Certificate of title prohibitions T |
| §4519.99(G) | §4519.67(B) | Certificate of title fraud T |
| | | Other Motor Vehicle Offenses |
| §4549.99 | §4549.01(B) | Stop vehicle when signaled T |
| | §4549.02(B) | Failure to stop after an accident T |

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| | §4549.021(B) | Failure to stop - non-highway accident T G GN |
| | §4549.03(B) | Failure to stop - property damage T |
| | §4549.042(B) | Vehicle master keys/Neutrally converts to F-5 & F-4 based on S.B. 2 (1996) T |
| | §4549.08(C) | Use of unauthorized plates T |
| Old | §4549.10(B) | Operate without license plates T |
| | New | Topic |
| | §4549.11(B) | Operate with number from former owner T |
| | §4549.12(B) | Operate with number from another state T |
| | §4549.18(B) | Commercial car display registration T |
| | §4549.42(F) | Tampering with odometer T (neutrally converts to F-4 & F-5 per S.B. 2 (1996)) |
| | §4549.43(B) | Sale of device to affect odometer T |
| | §4549.44(B) | Operation with disconnected odometer T |
| | §4549.45(B) | Sale of vehicle with tampered odometer T |
| | §4549.451(C) | Tampered odometer - auction sale T |
| | §4549.46(D) | Odometer disclosure T |
| §4549.99(C) | §4549.52 | County prosecutor or AG to enforce |
| | §4549.62(E)&(F) | Vehicle identification number fraud T |
| | | Christmas Tree Transport |
| §4551.99 | | |
| §4551.99(A) | §4551.04(B) | Christmas tree transport prohibitions T |
| | | Airport and Aircraft |
| §4561.99(A) | §4561.11(B) | Approval of airports T |
| | §4561.12(B) | Aircraft on public property T |
| | §4561.14(B) | Aircraft prohibitions T |
| | §4561.15(C) | Unsafe operation of aircraft T |
| §4561.99(D) | §4561.22(B) | General aircraft law prohibitions T |
| §4561.99(E) | §4561.24(B) | Operate motor vehicle on airport runway T |
| | §4561.31(G) | Structure and natural growth permit T |
| §4561.99 | §4561.99 | Aircraft law penalties/Largely repealed. Most move to offenses above. Only remaining provision: If a penalty is not otherwise stated, any Ch. 4561 offense carries up to \$500, up to 90 days, or both. T |
| §4563.99 | §4563.20(B) | Other airport prohibitions T |
| | | Port Authorities |
| §4582.99 | §4582.06(B) | Port authority powers and duties T |
| | §4582.31(B) | Port authority powers T |
| | | Ferry Violations |
| §4582.99 | §4583.01(B) | Ferry licensing offenses T |

List 6: OTHER SECTIONS WITH CONFORMING AMENDMENTS

S.B. 123 reorganizes the law and standardizes terms. Thus, many sections—not listed above or discussed elsewhere in this primer—were amended for purely non-substantive purposes. See the “note on T” before List 1 to get a sense of the technical changes covered here.

| Section | Topic |
|-----------|---|
| §9.981 | Bond proceedings |
| §119.062 | License cancellation or suspension |
| §733.40 | Mayor’s court fines |
| §1901.024 | Municipal court |
| §1905.01 | Mayor’s court jurisdiction |
| §1905.201 | Mayor’s court license suspension |
| §1907.20 | Clerks of county court |
| §2743.191 | Crime victims’ reparations fund |
| §2743.51 | Crime victim reparations definitions |
| §2743.52 | Court of Claims commissioners |
| §2923.01 | Conspiracy, attempt, & complicity |
| §2925.01 | Drug law definitions |
| §2929.01 | Criminal Code definitions |
| §2929.13 | Felony sentencing guidance |
| §2929.15 | Community control sanctions generally |
| §2929.16 | Residential sanctions |
| §2929.17 | Nonresidential sanctions |
| §2929.18 | Financial sanctions |
| §2929.19 | Sentencing hearing |
| §2929.23 | Electronic monitoring |
| §2929.41 | Multiple sentences |
| §2935.03 | Arrest authority |
| §2937.99 | Failure to appear & bail violations |
| §2953.35 | Convictions precluding sealing |
| §3327.10 | School bus driver’s certificate |
| §3793.02 | Alcohol and drug treatment programs |
| §3793.10 | Driver’s intervention programs |
| §3937.31 | Insurance policies |
| §4123.54 | <i>Occupational Diseases: Intoxication (H.B. 163)</i> |
| §4501.022 | Notice of license suspension |
| §4501.17 | OVI Fines Fund |
| §4501.19 | Law Enforcement Reimbursement Fund |
| §4501.25 | State Bureau of Motor Vehicles Fund |
| §4503.10 | Application for motor vehicle registration |
| §4503.102 | Motor vehicle registration by mail |
| §4503.39 | Persons named in declarations |
| §4506.01 | Commercial driver’s license law definitions |
| §4506.16 | BMV commercial driver’s license disqualifications |
| §4507.023 | Identities of suspended or canceled licenses |
| §4507.06 | Driver’s license application |
| §4507.08 | Restrictions on Issuance of Licenses and Permits |
| §4507.081 | Annual licenses |
| §4507.12 | Vision test before license renewal |
| §4507.15 | Reports of convictions and forfeitures |

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| §4507.164 | Impounding plates |
| §4507.17 | New license prohibited |
| Section | Topic |
| §4510.54 | <i>Modifying long suspensions (H.B. 163)</i> |
| §4511.194 | <i>Physical control under the influence (H.B. 163)</i> |
| §4507.19 | Cancel unlawfully obtained or altered license |
| §4507.45 | Reinstatement fee |
| §4507.50 | Identification cards |
| §4509.02 | FR law definitions |
| §4509.33 | Suspension of nonresident's privileges |
| §4509.34 | Suspension period |
| §4509.35 | Registrar gets copies of judgments |
| §4509.81 | Failure to surrender livery license |
| §4511.751 | Failure to stop at school bus |
| §4513.022 | Proof of financial responsibility |
| §4519.41 | Operating snowmobiles and APVs permitted |
| §4563.09 | Limits on airport zoning |
| §4563.10 | Airport zoning and farming |
| §4582.59 | Port authority appropriation of property |
| §5120.032 | Intensive program prisons (boot camps) |
| §5120.033 | Intensive program prisons – felony OVI |
| §5120.161 | Agreement for housing prisoners locally |
| §5503.22 | Driver's license examiners |

List 7: ENHANCING PRIOR OFFENSES

Various traffic misdemeanors carry a higher penalty on subsequent offense(s). As a shorthand, S.B. 123 defines “predicate motor vehicle or traffic offense” in §4511.01(III). The definition includes these State offenses as well as equivalent municipal ordinances:

| Section | Topic |
|----------------|--|
| §4511.03 | Emergency vehicles proceed cautiously past signals |
| §4511.051 | Pedestrians and slow moving vehicles on freeways |
| §4511.12 | Obeying traffic control devices |
| §4511.132 | Duties when approaching nonfunctioning signals |
| §4511.16 | Unauthorized signs or signals |
| §4511.20 | Willful or wanton disregard for safety on highways |
| §4511.201 | Willful or wanton disregard for safety elsewhere |
| §4511.21 | Speed limits* |
| §4511.211 | Speeding on private roads* |
| §4511.22 | Stopping or slow speed |
| §4511.23 | Speed regulations on bridges |
| §4511.25 | Lanes of travel upon roadways |
| §4511.26 | Vehicles proceeding in opposite directions |
| §4511.27 | Overtaking and passing of vehicles |
| §4511.28 | Overtaking and passing on the right |
| §4511.29 | Driving to the left of center in passing |
| §4511.30 | Driving to the left of center |
| §4511.31 | Hazardous zones |
| §4511.32 | One way highways and rotary traffic islands |
| §4511.33 | Driving in marked lanes |
| §4511.34 | Space between moving vehicles |

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| §4511.35 | Divided roadways |
| §4511.36 | Turns at intersections |
| §4511.37 | Turning in roadway prohibited |
| §4511.38 | Starting or backing vehicles |
| Section | Topic |
| §4511.39 | Giving an appropriate signal of intention |
| §4511.40 | Signals given by hand and arm |
| §4511.41 | Right of way at intersections |
| §4511.42 | Right of way when turning left |
| §4511.43 | Response to stop or yield signs |
| §4511.431 | Stop before driving onto a crossing sidewalk |
| §4511.432 | Stop signs for private roads and driveways |
| §4511.44 | Traffic on the roadway to be entered or crossed |
| §4511.441 | Right of way to pedestrians on a sidewalk |
| §4511.451 | Right of way to funeral procession |
| §4511.452 | Right of way to public safety vehicle |
| §4511.46 | Right of way to pedestrians in a crosswalk |
| §4511.47 | Right of way to blind pedestrians |
| §4511.48 | Pedestrians crossing at points other than crosswalks |
| §4511.481 | Pedestrians under the influence of alcohol or drugs |
| §4511.49 | Pedestrian movement in crosswalk |
| §4511.50 | Pedestrians walking along roadways |
| §4511.511 | Pedestrians on bridges or railroad crossings |
| §4511.53 | Rules for bicycles, motorcycles, and snowmobiles |
| §4511.54 | Attaching bicycles and sleds to vehicles |
| §4511.55 | Place and manner of operating bicycles and motorcycles |
| §4511.56 | Equipment of bicycles |
| §4511.57 | Passing on left of streetcar |
| §4511.58 | Passing a streetcar discharging passengers |
| §4511.59 | Driving and turning in front of streetcars |
| §4511.60 | Driving through a safety zone |
| §4511.61 | Stop signs at grade crossings |
| §4511.64 | Slow-moving vehicles or equipment crossing RR tracks |
| §4511.66 | Parking on highways |
| §4511.661 | Requirements when leaving motor vehicle unattended |
| §4511.68 | Parking |
| §4511.70 | Obstruction or interference with driver's view |
| §4511.701 | Occupying trailer while in motion |
| §4511.71 | Driving on closed highway |
| §4511.711 | Driving on sidewalks |
| §4511.712 | Obstructing intersection, crosswalk, or grade crossing |
| §4511.713 | Operation of motor vehicles on bicycle paths |
| §4511.72 | Following a public safety vehicle |
| §4511.73 | Driving over unprotected fire hose |
| §4511.763 | School bus license |
| §4511.771 | School buses' flashing red and amber lights |
| §4511.78 | Transportation of school children by mass transit |
| §4511.84 | Wearing headphones while driving |

* **Note:** While other traffic offenses no longer enhance speeding penalties, speeding is a “predicate” offense for purposes of enhancing penalties for other offenses.