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Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Gavarone

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SUMMARY

- Increases the current maximum fine (from \$500-\$1,000) for improperly passing a school bus, and establishes increasing tiered penalties for each additional violation committed within a ten-year period.
- Creates a new aggravated vehicular homicide offense: prohibits a person from causing the death of another as the proximate result of recklessly improperly passing a school bus; imposes a second degree felony and a class 1 driver's license suspension (life).
- Creates a new vehicular assault offense: prohibits a person from causing serious physical harm to another as the proximate result of recklessly improperly passing a school bus; imposes a third degree felony and a class 3 driver's license suspension (2-10 years).
- Clarifies that (1) cameras may be installed on a school bus to capture an image, images, or video of a person improperly passing the school bus, and (2) the image, images, or video may be used as evidence in any criminal case.
- Makes a \$500,000 appropriation (\$250,000 for FY 2020 and FY 2021) to be distributed to school districts that apply for grants to purchase and install bus cameras.
- Requires the Director of Public Safety to establish procedures to implement and distribute the grants; requires the Director to submit a report to the Governor and the General Assembly regarding the information gathered via the grant program.
- Designates August as "School Bus Safety Awareness Month."
- Names the bill the "School Bus Safety Act."

DETAILED ANALYSIS

Improperly passing a school bus: general penalties

Background

Under current law, a driver must stop for a school bus when both of the following apply:

- The driver meets or overtakes the school bus, from either direction; and
- The school bus is picking up or dropping off a school child, a child attending a Head Start program, or a person attending programs offered by a community board of mental health or a county board of developmental disabilities.

The driver must stop at least ten feet from the bus. The driver may not proceed until either the bus moves, or the bus driver signals the driver to proceed.¹

Currently, a driver who violates this requirement may be fined up to \$500, and the court may impose a class 7 driver's license suspension (not to exceed one year). The bill increases the base fine for the violation to \$1,000.² It then creates a tiered penalty system for a person who is convicted of or pleads guilty to more than one violation within a ten-year period, as illustrated in the table below.³

Number of offenses within 10 years of an initial offense	Maximum fine	Driver's license suspension level
1	\$1,250	Class 6 (3 months - 2 years)
2	\$1,500	Class 5 (6 months - 3 years)
3+	\$1,750	Class 4 (1 - 5 years)

Improperly passing a school bus: aggravated vehicular homicide

Currently, if a person is convicted of or pleads guilty to recklessly operating a motor vehicle and causing the death of another (or another's unborn), the person is guilty of aggravated vehicular homicide. The person is subject to a **third degree felony** and the person's

¹ R.C. 4511.75(A) and (C).

² R.C. 4511.75(F)(1).

³ R.C. 4511.75(F)(2) to (4).

driver's license is subject to a class 2 suspension (3 years - life).⁴ Certain extenuating circumstances may apply that would enhance the penalties to a second degree felony, a class 1 driver's license suspension (life), or a mandatory prison term (see "**Appendix**").⁵

The bill creates a separate aggravated vehicular homicide offense: it prohibits a person from causing the death of another (or another's unborn) as the proximate result of recklessly committing a violation of improperly passing a school bus. If a person is convicted of or pleads guilty to this offense, the bill imposes (1) a **second degree felony** and a class 1 driver's license suspension (life).⁶ The same extenuating circumstances that apply in current law would enhance the penalties to a first degree felony or a mandatory prison term (the class 1 driver's license suspension remains) (see "**Appendix**").⁷

Improperly passing a school bus: vehicular assault

Currently, if a person is convicted of or pleads guilty to recklessly operating a motor vehicle and seriously injuring another (or another's unborn), the person is guilty of vehicular assault. The person is subject to a **fourth degree felony** and the person's driver's license is subject to a class 4 license suspension (1-5 years).⁸ Certain extenuating circumstances may apply that would enhance the penalties to a third degree felony, a class 3 driver's license suspension (2-10 years), or a mandatory prison term (see "**Appendix**").⁹

The bill creates a separate offense: it prohibits a person from causing serious physical harm to another (or another's unborn) as the proximate result of recklessly committing a violation of improperly passing a school bus. If a person is convicted of or pleads guilty to this offense, the bill imposes a **third degree felony** and a class 3 driver's license suspension (2-10 years).¹⁰ The same extenuating circumstances that apply in current law would enhance the penalties to a second degree felony, a class 2 suspension (3 years - life), or a mandatory prison term (see "**Appendix**").¹¹

⁴ R.C. 2903.06(B)(3).

⁵ R.C. 2903.06(B)(3) and (E)(2) and 2929.14(A)(2)(a); a minimum term of 2, 3, 4, 5, 6, 7, or 8 years.

⁶ R.C. 2903.06(B)(4).

⁷ R.C. 2903.06(B)(4) and (E)(3) and 2929.14(A)(1); an indefinite prison term with a stated minimum term selected by the court of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years.

⁸ R.C. 2903.08(C)(2).

⁹ R.C. 2903.08(C)(2) and (D)(2) and 2929.14(A)(4); a definite term of 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months.

¹⁰ R.C. 2903.08(C)(4).

¹¹ R.C. 2903.08(C)(4) and (D)(2) and 2929.14(A)(4); definite terms of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months.

Installation and use of cameras on a school bus

Current law neither specifically authorizes nor prohibits the use of cameras placed on a school bus to capture an image or video of a motorist who passes a stopped school bus that is loading or unloading passengers. But, there is a provision that states that certain traffic camera laws **do not** apply to traffic cameras placed on buses for this purpose. Thus, the Code recognizes that school bus operators might use these cameras.¹²

The bill requires the Department of Public Safety, with the advice of the Superintendent of Public Instruction, to adopt rules relating to the construction and design of camera equipment that provides an image, images, or video solely for the purposes of capturing a motorist who passes such a stopped school bus.¹³

Additionally, when a bus driver believes that a motorist has committed the offense of failing to stop and contacts law enforcement, the bill allows the bus driver to corroborate the bus driver's information with an image, images, or video provided by the camera. The bill also allows the law enforcement agency to use that camera's image, images, or video to determine the identity of the violating motorist, but only if the image, images, or video are sufficiently clear. Last, the bill allows such image, images, or video to be used as evidence in the prosecution of any other criminal offense, including vehicular homicide and vehicular assault offenses.¹⁴

Appropriation and grants for bus cameras

The bill makes an appropriation to the Department of Public Safety, in the amount of \$500,000 for FYs 2020 and 2021 (\$250,000 for each year), for providing grants to city, local, and exempted village school districts, and community schools that are responsible for providing transportation to students enrolled in the school. The grants must be used to purchase and install external cameras on buses to record images and video of the motor vehicles that pass the bus while it is stopped and either loading or unloading passengers.¹⁵

Also, the bill requires the Director of Public Safety to establish procedures to implement and distribute the grants, including procedures governing an application process. The bill also requires the Director to submit a report to the Governor and the General Assembly not later than 90 days after the end of FYs 2020 and 2021 regarding the following:

1. The number of instances—where motor vehicles improperly passed stopped buses that are loading or unloading passengers—that were captured by cameras purchased and installed with monetary aid from a grant in that fiscal year;

¹² R.C. 4511.0913, not in the bill.

¹³ R.C. 4511.76.

¹⁴ R.C. 4511.751.

¹⁵ Section 3.

2. A comparison of the number of violations identified in (1) above and the number of those violations that were detected by other means in FYs 2018 and 2019;
3. An estimate of the amount of money needed to purchase and install such cameras on all eligible school buses in Ohio.¹⁶

Other provisions

The bill designates August as “School Bus Safety Awareness Month,” and names the bill the “School Bus Safety Act.”¹⁷

Appendix

The table below summarizes the bill’s aggravated vehicular homicide and vehicular assault changes:

Offense	Level of penalty	Level of penalty with enhancement	Suspension	Suspension with enhancement
Aggravated vehicular homicide (current) ¹⁸	3 rd degree felony	2 nd degree felony (with mandatory prison term)	Class 2	Class 1
Aggravated vehicular homicide: bus passing (bill) ¹⁹	2 nd degree felony	1 st degree felony (with mandatory prison term)	Class 1	Class 1
Vehicular assault (current) ²⁰	4 th degree felony	3 rd degree felony (with mandatory prison term)	Class 4	Class 3
Vehicular assault: bus passing (bill) ²¹	3 rd degree felony	2 nd degree felony (with mandatory prison term)	Class 3	Class 2

The following table specifies the circumstances that can result in a penalty enhancement, mandatory prison term, or license suspension enhancement in vehicular homicide and assault cases.

¹⁶ Section 3.

¹⁷ R.C. 5.501 and Section 5.

¹⁸ R.C. 2903.06(B)(3) and (E)(2).

¹⁹ R.C. 2903.06(B)(4) and (E)(3).

²⁰ R.C. 2903.08(C)(2) and (D)(2).

²¹ R.C. 2903.08(C)(4) and (D)(2).

	Penalty enhancement	Enhancements that result in mandatory prison terms	License suspension enhancements
Vehicular homicide: reckless (including bus passing) ²²	<ul style="list-style-type: none"> - Driving under a license suspension or cancellation - No valid driver's license and not eligible for renewal without examination - Prior violation of vehicular homicide, traffic-related homicide, manslaughter, assault 	<ul style="list-style-type: none"> - Prior violation of vehicular homicide or vehicular assault - Driving under a license suspension or cancellation - No valid driver's license and not eligible for renewal without examination 	<ul style="list-style-type: none"> - Prior violation of traffic-related murder, felonious assault, attempted murder
Vehicular assault: reckless (including bus passing) ²³	<ul style="list-style-type: none"> - Driving under a license suspension - Prior violation of vehicular assault - Prior violation of traffic-related homicide, manslaughter, assault - Failure to stop after an accident 	<ul style="list-style-type: none"> - Prior violation of vehicular homicide or vehicular assault - Driving under a license suspension 	<ul style="list-style-type: none"> - Prior violation of vehicular assault - Prior violation of traffic-related homicide, manslaughter, assault - Prior violation of traffic-related murder, felonious assault, attempted murder

HISTORY

Action	Date
Introduced	04-22-19

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²² R.C. 2903.06(B)(3), (C)(4), (E)(2) and (3).

²³ R.C. 2903.08(C)(2), (C)(4), and (D)(2).