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S.B. 134
133rd General Assembly

Bill Analysis

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Version: As Reported by Senate Transportation, Commerce and Workforce

Primary Sponsor: Sen. Gavarone

Carlen Zhang-D'Souza, Attorney

CORRECTED VERSION*

SUMMARY

- Increases the current maximum fine (from \$500 to \$1,000) for improperly passing a school bus and establishes increasing tiered penalties for additional violations committed within a 10-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 to 10 years).
- Creates a new vehicular harm offense: prohibits a person from causing physical harm, excluding serious physical harm, to another as the proximate result of recklessly improperly passing a school bus; imposes a fifth degree felony and a class 5 driver's license suspension (6 months to 3 years).
- Increases the penalty for all 3 new offenses if certain penalty enhancements apply.
- Aligns the penalty enhancements for vehicular harm and certain vehicular homicide and vehicular assault offenses.
- 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.

* Corrects footnote references that refer to equivalent offenses and the mandatory prison terms that may be imposed for aggravated vehicular homicide and vehicular assault.

- Appropriates \$250,000 in both 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.
- Includes the bill's new vehicular homicide and assault offenses that apply when passing a stopped school bus in the list of crimes that can enhance the penalties for an OVI (operating a vehicle while impaired) offense.
- Adds the new vehicular homicide offense that applies when passing a stopped school bus to the list of offenses that constitute criminally injurious conduct under the law governing crime victim reparations.
- 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 10 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 10-year period, as illustrated in the table below.³

¹ R.C. 4511.75(A) and (C).

² R.C. 4511.75(F)(1).

³ R.C. 4511.75(F)(2) to (4).

Number of offenses within 10 years of an initial offense	Maximum fine	Driver's license suspension level
1	\$1,250	Class 6 (3 months to 2 years)
2	\$1,500	Class 5 (6 months to 3 years)
3	\$1,750	Class 4 (1 to 5 years)
4	\$2,000	Class 3 (2 to 10 years)
5	\$2,250	Class 2 (3 years to life)
6	\$2,500	Class 1 (life)

Vehicular homicide and assault offenses related to passing a school bus

The bill establishes 3 new criminal prohibitions related to passing a stopped school bus. First, the bill establishes a new aggravated vehicular homicide offense and vehicular assault offense, which apply when a person recklessly violates the prohibition against passing a stopped school bus and causes the death of or serious physical harm to a person. Next, it creates the offense of vehicular harm. This offense applies when a person recklessly violates the prohibition against passing a stopped school bus and causes harm, other than serious physical harm, to a person.

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 driver's license is subject to a class 2 suspension (3 years to life).⁴ If certain circumstances apply, the base penalty is increased to a **second degree felony** (see "**Penalty enhancements**,"

⁴ R.C. 2903.06(B)(3).

below). The court may impose a class 1 driver's license suspension (life) and a mandatory prison term in other circumstances.⁵

The bill creates a new aggravated vehicular homicide offense: it prohibits a person from causing the death of another (or another's unborn) as the proximate result of 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 **second degree felony** and a class 1 driver's license suspension (life).⁶ The same circumstances that enhance the penalty for aggravated vehicular homicide under the bill apply to the new offense. If those enhancements apply, the offense is a **first degree felony** (see "**Penalty enhancements**," below) with a class 1 driver's license. A mandatory prison term may apply in other circumstances.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 causing serious physical harm to another (or another's unborn), the person is guilty of vehicular assault. Serious physical harm includes harm that carries a substantial risk of death, permanent incapacity, etc.⁸ For 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 to 5 years).⁹ If certain circumstances apply, the base penalty is increased to a **third degree felony** (see "**Penalty enhancements**," below). The court may impose a class 3 driver's license suspension (2 to 10 years) and a mandatory prison term in other circumstances.¹⁰

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 to 10 years).¹¹ The same circumstances that enhance the penalties for vehicular assault under the bill apply to the new offense. If those enhancements apply, the offense is a **second degree felony** (see "**Penalty enhancements**," below). The court may impose a class 2 suspension (3 years to life) and a mandatory prison term in other circumstances.¹²

⁵ R.C. 2903.06(B)(3) and (E)(2) and 2929.14(A)(2)(a); an indefinite prison term with a stated minimum term selected by the court 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)(a); 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. 2901.01(A)(5).

⁹ R.C. 2903.08(C)(2).

¹⁰ R.C. 2903.08(C)(2) and (D)(2) and 2929.14(A)(3)(a); a definite prison term of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months.

¹¹ R.C. 2903.08(C)(4).

¹² R.C. 2903.08(C)(4) and (D)(2) and 2929.14(A)(2)(a); an indefinite prison term with a stated minimum term selected by the court of 2, 3, 4, 5, 6, 7, or 8 years.

Improperly passing a school bus: vehicular harm

The bill creates a new offense: it prohibits a person from causing physical harm to another (or another's unborn), excluding serious physical harm, while operating or participating in the operation of a motor vehicle (or other vehicles) as the proximate result of recklessly committing a violation of improperly passing a school bus. This is distinct from vehicular assault because vehicular assault applies only when someone has suffered **serious** physical harm.

If a person is convicted of or pleads guilty to this offense, the bill imposes a **fifth degree felony** and a class 5 driver's license suspension (6 months to 3 years). If certain penalty enhancements apply, vehicular harm is a **fourth degree felony** (see "**Penalty enhancements**," below). The court may impose a class 4 driver's license suspension (1 to 5 years) in other circumstances.¹³

Penalty enhancements

The bill standardizes the circumstances (otherwise referred to as "penalty enhancements") under which a person may be sentenced to a higher degree of penalty for the following crimes:

- Aggravated vehicular homicide (while driving recklessly);
- Aggravated vehicular homicide (while improperly passing a stopped school bus);
- Vehicular homicide (while driving negligently or speeding in a construction zone);
- Vehicular manslaughter (as a result of committing a traffic violation);
- Vehicular assault (while driving recklessly);
- Vehicular assault (while speeding in a construction zone);
- Vehicular assault (while improperly passing a stopped school bus).

Additionally, the bill adds vehicular harm to the definition of "traffic-related homicide, manslaughter, or assault offense." Under current law, the term also includes: a violation of R.C. 2903.04(D) (involuntary manslaughter); R.C. 2903.06 (vehicular homicide); R.C. 2903.08 (vehicular assault); or a violation of R.C. 2903.06, 2903.07, or 2903.08 as they existed prior to March 23, 2000.¹⁴

Offense	Penalty enhancements under current law retained by the bill	Penalty enhancements <u>added</u> by the bill
Aggravated vehicular homicide (while driving recklessly); vehicular homicide (while driving negligently or speeding	<ul style="list-style-type: none"> ▪ If the offender was driving under a suspension or cancellation imposed 	<ul style="list-style-type: none"> ▪ If the offender, in the same course of conduct that resulted in the violation, also violated

¹³ R.C. 2903.082.

¹⁴ R.C. 2903.06(G)(1)(b).

Offense	Penalty enhancements under current law retained by the bill	Penalty enhancements <u>added</u> by the bill
in a construction zone); vehicular manslaughter (as a result of committing a traffic violation)	<p>under R.C. Chapter 4510¹⁵ or any other provision of the Revised Code;</p> <ul style="list-style-type: none"> ▪ If the offender did not have a valid driver’s license (or other specified operating license) and was not eligible for renewal without examination; ▪ If the offender previously has been convicted of or pleaded guilty to a violation of the vehicular homicide section or any traffic-related homicide, manslaughter, or assault offense.¹⁶ 	<p>R.C. 4549.02 (hit-skip on a public road), R.C. 4549.021 (hit-skip on a nonpublic road), or R.C. 4549.03 (hit-skip in an accident that results in damage to real property);</p> <ul style="list-style-type: none"> ▪ A prior violation of R.C. 2903.082 (vehicular harm, described above); ▪ A prior violation of any traffic-related murder, felonious assault, or attempted murder offense.
Vehicular assault (while driving recklessly)	<ul style="list-style-type: none"> ▪ If the offender was driving under a suspension imposed under R.C. Chapter 4510 or any other provision of the Revised Code; ▪ If the offender previously has been convicted of or pleaded guilty to a violation of vehicular assault or any traffic-related homicide, manslaughter, or assault offense; 	<ul style="list-style-type: none"> ▪ If the offender was driving under a cancellation imposed under R.C. Chapter 4510 or any other provision of the Revised Code; ▪ If the offender did not have a valid driver’s license (or other specified operating license) and was not eligible for renewal without examination;

¹⁵ R.C. Chapter 4510 encompasses the law related to driver’s license suspensions.

¹⁶ R.C. 2903.06(B)(3); “traffic-related homicide, manslaughter, or assault offense” means a violation of section 2903.04(D) (involuntary manslaughter), a violation of 2903.06 or 2903.08 (vehicular assault), or a violation of R.C. 2903.06, 2903.07, or 2903.08 of the Revised Code as they existed prior to March 23, 2000 – R.C. 2903.06(G)(1)(b).

Offense	Penalty enhancements under current law retained by the bill	Penalty enhancements <u>added</u> by the bill
	<ul style="list-style-type: none"> ▪ If the offender, in the same course of conduct that resulted in the violation, also violated R.C. 4549.02 (hit-skip on a public road), R.C. 4549.021 (hit-skip on a nonpublic road), or R.C. 4549.03 (hit-skip in an accident that results in damage to real property). 	<ul style="list-style-type: none"> ▪ A prior violation of R.C. 2903.082 (vehicular harm, described above); ▪ A prior violation of any traffic-related murder, felonious assault, or attempted murder offense.
Vehicular assault (while speeding in a construction zone)	<ul style="list-style-type: none"> ▪ If the offender was driving under a suspension imposed under R.C. Chapter 4510 or any other provision of the Revised Code; ▪ If the offender previously has been convicted of or pleaded guilty to a violation of vehicular assault or any traffic-related homicide, manslaughter, or assault offense. 	<ul style="list-style-type: none"> ▪ If the offender was driving under a cancellation imposed under R.C. Chapter 4510 or any other provision of the Revised Code; ▪ If the offender did not have a valid driver's license (or other specified operating license) and was not eligible for renewal without examination; ▪ A prior violation of R.C. 2903.082 (vehicular harm, described above); ▪ If the offender, in the same course of conduct that resulted in the violation, also violated R.C. 4549.02 (hit-skip on a public road), R.C. 4549.021 (hit-skip on a nonpublic road), or R.C. 4549.03 (hit-skip in an accident that results in damage to real property); ▪ A prior violation of any traffic-related murder, felonious assault, or

Offense	Penalty enhancements under current law retained by the bill	Penalty enhancements <u>added</u> by the bill
		attempted murder offense.
Aggravated vehicular homicide (while improperly passing a stopped school bus); vehicular assault (while improperly passing a stopped school bus); and vehicular harm (while improperly passing a stopped school bus)	No provision.	<ul style="list-style-type: none"> ▪ If the offender was driving under a suspension or cancellation imposed under R.C. Chapter 4510 or any other provision of the Revised Code; ▪ If the offender did not have a valid driver's license (or other specified operating license) and was not eligible for renewal without examination; ▪ If the offender, in the same course of conduct that resulted in the violation, also violated R.C. 4549.02 (hit-skip on a public road), R.C. 4549.021 (hit-skip on a nonpublic road), or R.C. 4549.03 (hit-skip in an accident that results in damage to real property); ▪ A prior violation of any traffic-related murder, felonious assault, or attempted murder offense; and ▪ A prior violation of any traffic-related homicide, manslaughter, or assault offense.

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, there is a recognition in the Revised Code that school bus operators might use these cameras.¹⁷

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.¹⁸

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 image or video to determine the identity of the violating motorist, but only if it is sufficiently clear. Last, the bill allows the image, images, or video to be used as evidence in the prosecution of any other criminal offense, including vehicular homicide and vehicular assault offenses.¹⁹

Appropriation and grants for bus cameras

The bill makes an appropriation to the Department of Public Safety (DPS) in the amount of \$250,000 in both FYs 2020 and 2021. DPS may use the money to provide 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.²⁰

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;
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;

¹⁷ R.C. 4511.0913, not in the bill.

¹⁸ R.C. 4511.76.

¹⁹ R.C. 4511.751.

²⁰ Section 3.

3. An estimate of the amount of money needed to purchase and install such cameras on all eligible school buses in Ohio.²¹

Other provisions

Under current law, if a person commits an OVI (operating a vehicle while impaired) offense and, within the prior 10 years, the person has committed one or more OVIs or other equivalent offenses (for example, reckless vehicular homicide), the penalty for the OVI offense will be enhanced. The bill includes the new aggravated vehicular homicide and vehicular assault offenses that apply when passing a stopped school bus to the list of equivalent offenses that can enhance the penalties for an OVI. It also adds the new aggravated vehicular homicide offense to the list of offenses that constitute criminally injurious conduct under the law governing crime victim reparations.²²

The bill makes a technical change to an incorrect cross reference in the portion of the vehicular homicide law that imposes a mandatory prison term.²³

The bill designates August as “School Bus Safety Awareness Month,” and names the bill the “School Bus Safety Act.”²⁴

HISTORY

Action	Date
Introduced	04-22-19
Reported, S. Transportation, Commerce & Workforce	01-22-20

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²¹ Section 3.

²² R.C. 2743.51, 4510.17(E)(2), and 4511.181(A)(5).

²³ R.C. 2903.06(E).

²⁴ R.C. 5.501 and Section 5.