



Legislation Text

File #: 0196-2015, **Version:** 1

1. BACKGROUND:

As a result of the continued code review process conducted by the City Attorney in an effort to remove errors and conflicts from the Columbus City Codes and to strengthen the enforceability of certain criminal provisions of the Columbus City Code in order to address community needs, a series of code changes were recommended for the code titles under the direction of the City Attorney. These changes will also more closely track the language of the Revised Code.

2. FISCAL IMPACT:

No funding is required for this legislation.

To amend and repeal various sections in Title 21 of the Columbus City Code to reconcile the language of certain traffic offenses with those contained in the Ohio Revised Code.

WHEREAS, this legislation results from the continued code review process conducted by the City Attorney to remove errors from the Columbus City Code, to reconcile certain language to comply with Ohio Revised Code provisions, and to strengthen the enforceability of certain criminal provisions of the Columbus City Code in order to address community needs; and

WHEREAS, these changes will resolve any existing inconsistencies with the Ohio Revised Code; and

WHEREAS, this ordinance authorizes the amendments to Title 21 of the Columbus City Code in furtherance of these objectives; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. That sections 2135.12, 2141.11 and 2141.14 of the Columbus City Codes, 1959, shall be amended to read as follows:

2135.12 - Failure to stop after an accident or collision.

(a) Whenever a vehicle is involved in an accident or collision with either persons or property (including personal or real property) upon any public street or highway, or upon any public or private property, the operator of any such vehicle who has knowledge of the accident or collision shall do all of the following:

- (1) Immediately stop the motor vehicle at the scene of the accident or collision.
- (2) Remain at the scene of the accident or collision, until all requirements of this section have been met.

- (3) Provide the operator's name and address to all other persons or operators involved in the accident or collision.
- (4) If the operator of the vehicle involved in the accident or collision is not the owner of that vehicle, then the operator shall provide the name and address of the owner of the vehicle to all other persons or operators involved in the accident or collision.
- (5) Upon request, the operator of the vehicle involved in the accident or collision shall exhibit or display the operator's driver's license or commercial driver's license to all other persons or operators involved in the accident or collision.
- (6) The operator of the motor vehicle involved in the accident or collision shall provide the registration number of the operated vehicle involved in the accident or collision to all other persons or operators involved in the accident or collision.
- (7) If any other person or operator involved in the accident or collision is unable to comprehend and record the information required to be provided by this section, then the other person or operator involved in the accident or collision shall immediately notify the Columbus Division of Police, or the nearest police authority, concerning the fact and location of the accident or collision, and such other person or operator making the notification shall remain at the scene of the accident or collision until a law enforcement officer arrives at the scene, unless the person or operator notifying the appropriate law enforcement agency is removed from the scene of the accident or collision by an emergency vehicle operated by a political subdivision.
- (8) Upon request, provide the name and address of any business entity that provides an insurance liability policy or bond for the operator to be in compliance with the State Financial Responsibility law.
- (9) The operator of a motor vehicle involved in an accident or collision shall provide all of the information required by this section to any law enforcement officer at the scene of such accident or collision.
- (10) If the accident or collision is with an unoccupied or unattended vehicle, then the operator of the vehicle that was involved in the accident or collision shall remain at the scene of such accident or collision until the operator has securely attached the information required to be provided by this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle, and if available, a telephone number where the operator may be reached.
- (11) If the damaged property involved in the accident or collision is not another vehicle, then the operator shall take all reasonable steps to locate the owner or person in charge of such property, including remaining at the scene of the accident or collision for a minimum of thirty (30) minutes, unless transported for medical treatment. Once the owner or person in charge of such property is located, the operator shall provide the owner/person in charge with the information required in paragraphs (3), (4), (6), and (8) of division (a) of this section. If the owner or person in charge of such property is not present and cannot be located to provide the information required by this section, then the operator of the vehicle involved in such accident or collision shall notify the Columbus Division of Police, Accident Investigation Squad, within twenty-four (24) hours, and in writing, of all information required by this section to be provided to the owner or person in control of the damaged property, together with the date,

time, and location of the accident or collision.

- (b) (1) Except as otherwise provided in this division, whoever violates division (a) of this section is guilty of failure to stop after an accident, a misdemeanor of the first degree. The court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privileges from the range specified in division (A)(5) of Section 4510.02 of the Revised Code. No judge shall suspend the first six (6) months of suspension of the offender's license, permit, or privilege required by this division.

The offender shall provide the court with proof of financial responsibility as defined in section 4509.01 of the Revised Code. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to section 2929.28 of the Revised Code in an amount not exceeding five thousand dollars (\$5,000.00) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section.

- (2) If accident or collision in violation of this section results in serious physical harm or death to a person, failure to stop after an accident is a felony to be prosecuted under applicable state law.

2141.11 - Driving under suspension or in violation of license restriction.

(A) No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under any provision of the Ohio Revised Code, other than Chapter 4509 of the Ohio Revised Code, or under any applicable law in any other jurisdiction in which the person's license or permit was issued shall operate any motor vehicle upon the streets or highways or upon any public or private property used by the public for purposes of vehicular travel or parking within this City during the period of suspension unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges.

(B) No person shall operate any motor vehicle upon a street or highway or any public or private property used by the public for purposes of vehicular travel or parking in this City in violation of any restriction of the person's driver's or commercial driver's license or permit imposed under division (D) of Section 4506.10 or under Section 4507.14 of the Ohio Revised Code.

(C)(1) Whoever violates this section is guilty of driving under suspension or in violation of a license restriction, a misdemeanor of the first degree. The court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Section 4510.02 of the Ohio Revised Code.

(2) Except as provided in division (C)(3) or (4) of this section, the court, in addition to any other penalty that it imposes on the offender and if the vehicle is registered in the offender's name, shall order the immobilization of the vehicle involved in the offense for thirty (30) days in accordance with Section 4503.233 of the Ohio Revised Code and the impoundment of that vehicle's license plates for thirty (30) days.

(3) If the offender has been convicted of or pleaded guilty to one (1) violation of this section, Section 4510.11 of

the Ohio Revised Code, or a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender and if the vehicle is registered in the offender's name, shall order the immobilization of the vehicle involved in the offense for sixty (60) days in accordance with Section 4503.233 of the Ohio Revised Code and the impoundment of that vehicle's license plates for sixty (60) days.

(4) If the offender has been convicted of or pleaded guilty to two (2) or more violations of this section, Section 4510.11 of the Ohio Revised Code, or a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender and if the vehicle is registered in the offender's name, shall order the criminal forfeiture of the vehicle involved in the offense to the state.

(D) Any order for immobilization and impoundment under this section shall be issued and enforced under Section 4503.233 of the Ohio Revised Code. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(E) Any order of criminal forfeiture under this section shall be issued and enforced under Section 4503.234 of the Ohio Revised Code. Upon receipt of the copy of the order from the court, neither the registrar of motor vehicles nor a deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five (5) years after the date of the order, unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the registrar of the termination. The registrar then shall take necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.

(F) The offender shall provide the court with proof of financial responsibility as defined in section 4509.01 of the Revised Code. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to section 2929.28 of the Revised Code in an amount not exceeding five thousand dollars (\$5,000.00) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section.

2141.14 - Driving under OVI suspension.

(A) No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under Section 4511.19, 4511.191, or 4511.196 of the Ohio Revised Code or under Section 4510.07 of the Ohio Revised Code for a conviction of a violation of a municipal OVI ordinance shall operate any motor vehicle upon the streets or highways within this City during the period of the suspension.

(B) Whoever violates this section is guilty of driving under OVI suspension. The court shall sentence the offender under Chapter 2929 of the Ohio Revised Code, subject to the differences authorized or required by this section.

(1) Except as otherwise provided in division (B)(2) or (3) of this section, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

(a) A mandatory jail term of three (3) consecutive days. The three (3)-day term shall be imposed, unless, subject to division (C) of this section, the court instead imposes a sentence of not less than thirty (30) consecutive days of house arrest with electronic monitoring. A period of house arrest with electronic monitoring imposed under this division shall not exceed six (6) months. If the court imposes a mandatory

three (3)-day jail term under this division, the court may impose a jail term in addition to that term, provided that in no case shall the cumulative jail term imposed for the offense exceed six (6) months.

(b) A fine of not less than two hundred fifty (250) and not more than one thousand (\$1,000.00) dollars;

(c) A license suspension under division (E) of this section;

(d) If the vehicle the offender was operating at the time of the offense is registered in the offender's name, immobilization for thirty (30) days of the offender's vehicle and impoundment for thirty (30) days of the identification license plates of that vehicle. The order for immobilization and impoundment shall be issued and enforced in accordance with Section 4503.233 of the Ohio Revised Code.

(2) If, within six (6) years of the offense, the offender previously has been convicted of or pleaded guilty to one (1) violation of this section, Section 4510.14 of the Ohio Revised Code, or equivalent offense, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

(a) A mandatory jail term of ten (10) consecutive days. Notwithstanding the jail terms provided in Sections 2929.21 to 2929.28 of the Ohio Revised Code, the court may sentence the offender to a longer jail term of not more than one (1) year. The ten (10) day mandatory jail term shall be imposed unless, subject to division (C) of this section, the court instead imposes a sentence of not less than ninety (90) consecutive days of house arrest with electronic monitoring. The period of house arrest with electronic monitoring shall not exceed one (1) year.

(b) Notwithstanding the fines provided for in Chapter 2929 of the Ohio Revised Code, a fine of not less than five hundred (500) and not more than two thousand five hundred (\$2,500.00) dollars;

(c) A license suspension under division (E) of this section;

(d) If the vehicle the offender was operating at the time of the offense is registered in the offender's name, immobilization of the offender's vehicle for sixty (60) days and the impoundment for sixty (60) days of the identification license plates of that vehicle. The order for immobilization and impoundment shall be issued and enforced in accordance with Section 4503.233 of the Ohio Revised Code.

(3) If, within six (6) years of the offense, the offender previously has been convicted of or pleaded guilty to two (2) or more violations of this section, Section 4510.14 of the Ohio Revised Code, or equivalent offenses, driving under OVI suspension is a misdemeanor. The court shall sentence the offender to all of the following:

(a) A mandatory jail term of thirty (30) consecutive days. Notwithstanding the jail terms provided in Sections 2929.21 to 2929.28 of the Ohio Revised Code, the court may sentence the offender to a longer jail term of not more than one (1) year. The court shall not sentence the offender to a term of house arrest with electronic monitoring in lieu of the mandatory portion of the jail term.

(b) Notwithstanding the fines set forth in Chapter 2929 of the Ohio Revised Code, a fine of not less than five hundred (500) and not more than two thousand five hundred (\$2,500.00) dollars;

(c) A license suspension under division (E) of this section;

(d) If the vehicle the offender was operating at the time of the offense is registered in the offender's name, criminal forfeiture to the state of the offender's vehicle. The order of criminal forfeiture shall be issued and enforced in accordance with Section 4503.234 of the Ohio Revised Code. If title to a motor vehicle that is subject to an order for criminal forfeiture under this division is assigned or transferred and division (B)(2) or (3) of Section 4503.234 of the Ohio Revised Code applies, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealer's association. The proceeds from any fine so imposed shall be distributed in accordance with division (C)(2) of Section 4503.234 of the Ohio Revised Code.

(C) No court shall impose an alternative sentence of house arrest with electronic monitoring under division (B) (1) or (2) of this section unless, within sixty (60) days of the date of sentencing, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the jail term imposed, the offender will not be able to begin serving that term within the sixty (60)day period following the date of sentencing.

An offender sentenced under this section to a period of house arrest with electronic monitoring shall be permitted work release during that period.

(D) Fifty (50) percent of any fine imposed by a court under division (B)(1), (2) or (3) of this section shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court, as created by the city pursuant to division (H) of Section 4511.191 of the Ohio Revised Code.

(E) In addition to or independent of all other penalties provided by law or ordinance, the trial judge shall impose on an offender who is convicted of or pleads guilty to a violation of this section a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of Section 4510.02 of the Ohio Revised Code.

When permitted as specified in Section 4510.021 of the Ohio Revised Code, if the court grants limited driving privileges during a suspension imposed under this section, the privileges shall be granted on the additional condition that the offender must display restricted license plates, issued under Section 4503.231 of the Ohio Revised Code, on the vehicle driven subject to the privileges, except as provided in division (B) of that section.

A suspension of a commercial driver's license under this section shall be concurrent with any period of suspension or disqualification under Section 3123.58 or 4506.16 of the Ohio Revised Code. No person who is disqualified for life from holding a commercial driver's license under Section 4506.16 of the Ohio Revised Code shall be issued a driver's license under Chapter 4507 of the Ohio Revised Code during the period for which the commercial driver's license was suspended under this section, and no person whose commercial driver's license is suspended under this section shall be issued a driver's license under Chapter 4507 of the Ohio Revised Code during the period of the suspension.

(F) The offender shall provide the court with proof of financial responsibility as defined in section 4509.01 of the Revised Code. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to section 2929.28 of the Revised Code in an amount not exceeding five thousand dollars (\$5,000.00) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section.

~~(F)~~(G) As used in this section:

(1) "Electronic monitoring" has the same meaning as in Section 2929.01 of the Ohio Revised Code.

(2) "Equivalent offense" means any of the following:

(a) A violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) of this section;

(b) A violation of a former law of this state that was substantially equivalent to division (A) of this section.

(3) "Jail" has the same meaning as in Section 2929.01 of the Ohio Revised Code.

(4) "Mandatory jail term" means the mandatory term in jail of three (3), ten (10) or thirty (30) consecutive days that must be imposed under division (B)(1), (2) or (3) of this section upon an offender convicted of a violation of division (A) of this section and in relation to which all of the following apply:

(a) Except as specifically authorized under this section, the term must be served in a jail.

(b) Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to any provision of the Ohio Revised Code.

Section 2. That prior existing Sections 2135.12, 2141.11 and 2141.14 are hereby repealed.

Section 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.