

CHAPTER 303
Enforcement, Impounding and Penalty

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CROSS REFERENCES

See sectional histories for similar State law
Disposition of unclaimed vehicles - see Ohio R.C. 737.32, 4513.62 et seq.
Citations for minor misdemeanors - see Ohio R.C. 2935.26 et seq.
Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. 4507.16, 4507.34
State point system suspension - see Ohio R.C. 4507.40
Uniform application of Ohio Traffic Law - see Ohio R.C. 4511.06
Marking motor vehicles used by traffic officers - see Ohio R.C. 4549.13
Distinctive uniform required for traffic officers - see Ohio R.C. 4549.15
Exceptions for emergency or public safety vehicles - see TRAF. 331.20, 333.06

303.01 COMPLIANCE WITH LAWFUL ORDER OF POLICE OFFICER; FLEEING.

(a) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control or regulate traffic.

(b) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.

(EDITOR'S NOTE: Refer to Ohio R.C. 2921.331 for filing charges under subsection (b) hereof since the jury or judge as trier of fact may determine the violation to be a felony.)

(c) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer. A violation of subsection (a) is a misdemeanor of the first degree. Except as hereinafter provided, a violation of subsection (b) is a misdemeanor of the first degree. A violation of subsection (b) is a felony if the jury or judge as trier of fact finds any one of the following by proof beyond a reasonable doubt:

- (1) In committing the offense, the offender was fleeing immediately after the commission of a felony;

- (2) The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property;
- (3) The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

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

303.02 TRAFFIC DIRECTION IN EMERGENCIES; OBEDIENCE TO SCHOOL GUARD.

(a) Police officers shall direct or regulate traffic in accordance with the provisions of this Traffic Code, provided that, in the event of fire or other emergency or to expedite traffic or safeguard pedestrians, they are authorized to direct traffic as conditions may require notwithstanding the provisions of this Traffic Code. Firemen, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity. The direction of traffic may be by word or audible signal, by gesture or visible signal or by any combination thereof. No person shall fail to comply with any lawful order or direction of any police officer or fireman issued pursuant to this section.

(b) No person shall fail to comply with any lawful order or direction of any school crossing guard invested with authority to direct, control or regulate traffic in the vicinity of the school to which such guard may be assigned.

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

303.03 OFFICER MAY REMOVE IGNITION KEY.

A law enforcement officer may remove the ignition key left in the ignition switch of an unlocked and unattended motor vehicle parked on a street or highway, or any public or private property used by the public for purposes of vehicular travel or parking. The officer removing such key shall place notification upon the vehicle detailing his name and badge number, the place where such key may be reclaimed and the procedure for reclaiming such key. The key shall be returned to the owner of the motor vehicle upon presentation of proof of ownership.
(ORC 4549.05)

303.04 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.

(a) The provisions of this Traffic Code do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway within an area designated by traffic control devices, but apply to such persons and vehicles when traveling to or from such work.

(b) The driver of a highway maintenance vehicle owned by this state or any political subdivision of this state, while the driver is engaged in the performance of official duties upon a street or highway, provided the highway maintenance vehicle is equipped with flashing lights and such other markings as are required by law, and such lights are in operation when the driver

and vehicle are so engaged, shall be exempt from criminal prosecution for violations of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 and Ohio R.C. 4511.66 and 5577.01 to 5577.09.

- (c) (1) This section does not exempt a driver of a highway maintenance vehicle from civil liability arising from a violation of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 or Ohio R.C. 4511.66 or 5577.01 to 5577.09.
- (2) This section does not exempt the driver of a vehicle that is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Ohio R.C. 5577.01 to 5577.09.
(ORC 4511.04)
(Ord. 14-288. Passed 11-12-14.)

303.041 EMERGENCY, PUBLIC SAFETY AND CORONER'S VEHICLES EXEMPT.

(a) Ohio R.C. 4511.12, 4511.13, 4511.131, 4511.132, 4511.14, 4511.202, 4511.21, 4511.211, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.62, 4511.66, 4511.68, 4511.681 and 4511.69 and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to the driver of an emergency vehicle or public safety vehicle if the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and if the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway. (ORC 4511.041)

(b) Ohio R.C. 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.35, 4511.36, 4511.37, 4511.38 and 4511.66, and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to a coroner, deputy coroner, or coroner's investigator operating a motor vehicle in accordance with Ohio R.C. 4513.171. This section does not relieve a coroner, deputy coroner, or coroner's investigator operating a motor vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway. (ORC 4511.042)

303.05 APPLICATION TO PERSONS RIDING, DRIVING ANIMALS UPON ROADWAY.

Every person riding, driving or leading an animal upon a roadway shall be subject to the provisions of this Traffic Code applicable to the driver of a vehicle, except those provisions of such sections which by their nature are inapplicable. (ORC 4511.05)

303.06 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS.

- (a) No person, unless otherwise directed by a police officer, shall:
 - (1) As a pedestrian, occupy any space within the limits of the right-of-way of a freeway, except: in a rest area; on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for pedestrian use; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle; or to obtain assistance;
 - (2) Occupy any space within the limits of the right of way of a freeway, with: an animal-drawn vehicle; a ridden or led animal; herded animals; a pushcart; a bicycle, except on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately

marked for bicycle use; a bicycle with motor attached; a motor driven cycle with a motor which produces not to exceed five brake horsepower; an agricultural tractor; farm machinery; except in the performance of public works or official duties.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.051)

303.07 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.

The provisions of this Traffic Code applicable to the drivers of vehicles shall apply to the drivers of all vehicles owned or operated by the United States, any state or any political subdivision thereof, including this Municipality, except as may be otherwise provided by law and subject to such specific exceptions as are set forth with reference to authorized emergency and public safety vehicles.

303.08 PROVIDING FALSE INFORMATION TO POLICE OFFICER.

(a) No person shall knowingly present, display or orally communicate a false name, social security number or date of birth to a law enforcement officer who is in the process of issuing to the person a traffic ticket or complaint.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 4513.361)

303.09 CIVIL PENALTIES FOR AUTOMATED TRAFFIC CONTROL PHOTOGRAPHIC SYSTEM.

(a) Applicability.

- (1) Notwithstanding any other provision of this traffic code, there is hereby adopted a civil enforcement system for red light camera system violations as outlined in this section. The automated traffic control photographic system (ATCPS) imposes monetary liability on the owner of a vehicle, for failure of an operator thereof to comply with traffic control indications in accordance with the provisions of this section.
- (2) The Police Division shall be responsible for administering the ATCPS. Specifically, that division shall be authorized to install and operate an automated traffic control signal photographic system within the City.
- (3) This section applies whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination. Only the colors green, red and yellow (amber) shall be used, except for special pedestrian signals, and said lights shall indicate and apply to drivers of vehicles as follows:
 - A. "Green indication" means the same as defined in Section 313.03(a).
 - B. "Steady yellow indication" means the same as defined in Section 313.03(b).
 - C. "Steady red indication" means the same as defined in Section 313.03(c).
- (4) Intersections in which an ATCPS is installed shall have visible postings upon approach of the intersection indicating that the intersection is equipped with an automated traffic control signal monitoring system.
- (5) The Police Division shall administer the ATCPS program and shall maintain a list of system locations within the city limits where traffic-control photographic systems are installed.

- (6) Whenever a Springfield Police Officer witnesses a violation of Section 313.03(c) or Ohio Revised Code Section 4511.13, and has issued a citation pursuant to those sections, this Ordinance does not apply. However, the recorded image may be used as evidence for a violation of Section 313.03(c) or Ohio Revised Code Section 4511.13. Any citation for a violation of Section 313.03(c) or Ohio Revised Code Section 4511.13 issued personally by an officer of the City of Springfield Police Division at an ATCPS location shall not be issued in the manner described under this section. The citation shall be treated in the same manner as prescribed by applicable Traffic or other Rules.
- (7) This section shall not apply to violations involving vehicle or pedestrian collisions.

(b) Definitions. For purposes of this section, the following words and phrases shall have the meanings indicated.

- (1) “Owner” means the registered owner of a motor vehicle as identified by the Bureau of Motor Vehicles for the state registered or a lessee of a motor vehicle under a lease of 6 months or more.
- (2) “Recorded Images” means images recorded by an automated traffic control signal photographic system on any of the following:
 - A. Two or more photographs; or
 - B. Two or more microphotographs; or
 - C. Two or more electronic images; or
 - D. Two or more Digital images; or
 - E. Videotape; or
 - F. Any other medium; and
 - G. Showing the front or rear of a motor vehicle and on at least one image or portion of tape, clearly identifying the license plate number of the motor vehicle.
- (3) “Automated Traffic Control Signal Photographic System” means a device with one or more motor vehicle sensors, installed to work in conjunction with a traffic control signal, to produce recorded images of motor vehicles entering an intersection against a red signal indication.
- (4) “In Operation” means operating in good working condition.
- (5) “Hearing Officer” means an independent third party, not employed by the City of Springfield.
- (6) “System Location” is the approach to an intersection toward which a photographic, microphotographic, electronic image, digital image, videotape, or any other medium is directed and is in operation. It is the location where the automated traffic control photographic system is installed to monitor offenses under this section.
- (7) “Responsible Party” is the person who was operating the vehicle at the time of the violation or the person who had care, custody, and control of the vehicle at the time of the violation.

(c) Violation.

- (1) It shall be unlawful for a vehicle to cross the stop line at a system location when the traffic controls signal for that vehicle’s direction of travel is emitting a steady red light. The owner of the vehicle shall be responsible for a violation under this section, except when the owner can provide evidence that the vehicle was in the care, custody, and control of another person at the time of the violation, as described in subsection (c)(2).
- (2) The owner of the vehicle shall not be responsible for the violation if, within fifteen (15) calendar days after notification of the liability, the owner furnishes the Police Division with:
 - A. The name and address of the person who leased, rented, or otherwise had the care, custody, and control of the vehicle at the time of the violation; or

- B. An affidavit by the owner stating that at the time of the violation, the vehicle or the license plates of the vehicle involved were stolen or were in the care, custody, or control of some person who did not have the owner's permission to use the vehicle. In order to demonstrate that the vehicle or the license plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a police report about the stolen motor vehicle or license plates was filed prior to the violation or within 48 hours after the violation occurred.
 - (3) A certified copy of the notice of liability alleging the violation of this Section occurred, sworn to or affirmed by a duly authorized Police Officer of the City of Springfield, with the recorded images produced by an automated traffic control signal photographic system shall be prima facie evidence of the facts contained therein and shall be admissible in a proceeding alleging a violation under this section.
 - (4) If the vehicle involved in the violation is a commercial vehicle and the notice of liability is issued to a corporate entity, the corporate entity must provide to the Police Division an affidavit, sworn to or affirmed by the statutory agent of the corporate entity, that:
 - A. States that the person/entity named in the notice of liability was not in operation of the vehicle at the time of the violation; and
 - B. Provides the name, address, and driver's license identification number of the person who was in operation of the vehicle at the time of the violation.
- (d) Notice of Liability.
- (1) The notice of liability shall be processed by the City or its designee, and shall be served by ordinary mail to the owner's address as given on the motor vehicle registration from the Bureau of Motor Vehicles of the state registered. The notice of liability shall include:
 - A. The name and address of the registered owner of the vehicle;
 - B. The license plate number of the motor vehicle involved in the violation;
 - C. The violation charged;
 - D. The location of the intersection;
 - E. The date and time of the violation;
 - F. A copy of the recorded images(s);
 - G. The amount of the civil penalty imposed and the date by which the civil penalty should be paid and where the payment should be made;
 - H. A signed statement by a Springfield Police Officer that based on inspection of recorded images, the motor vehicle was being operated in violation of subsection (c)(1) of this section, and a statement that the recorded images are prima facie evidence of a violation of subsection (c)(1) of this section;
 - I. Information advising the person alleged to be liable of the options as provided in subsection (e)(1) of this section;
 - J. The time, place, and manner in which an administrative appeal can be initiated and a warning that failure to exercise the options provided under subsection (e)(1) of this section in a timely manner is an admission of liability.
 - (2) The City of Springfield or its designee may mail, by ordinary mail, a warning notice in lieu of notice of liability under this section.
 - (3) Except as provided in subsection (e)(3)B., a notice of liability issued under this section shall be mailed no later than fifteen (15) calendar days after the alleged violation.

- (4) Except as provided under subsections (e)(3)A. of this section, the Police Division or its designee may not mail a notice of liability to a person who is not the owner of the vehicle.
- (e) Administrative Appeal.
- (1) An owner or responsible party who receives a “notice of liability”, under this section may do one of the following:
- A. Pay the civil penalty, in accordance with instructions on the notice of liability; or
 - B. Within fifteen (15) calendar days provide the Police Division or its designee information as to the driver of the vehicle, at the time of the violation; or
 - C. Contest the notice of liability by filing a written request for review of the notice of liability with payment in the amount equal to the amount of the civil penalty to the Police Division or its designee. An individual desiring a hearing must post payment equal to the amount of the civil penalty before an appeal hearing will be scheduled. A written notice of request for review must be filed within fifteen (15) days after receipt of the notification of liability. The failure to give notice of request for review within this time period shall constitute a waiver of the right to contest the notice of liability. A Hearing Officer shall hear reviews. A hearing shall be held within ten (10) business days of the receipt of the request for review; this time may be extended upon a written request for additional time.
 1. The Hearing Officer shall determine whether a preponderance of evidence establishes that a violation of this section occurred and the person requesting the review is liable. A certified copy of the notice of liability alleging the violation of this Section occurred, sworn to or affirmed by a duly authorized Police Officer of the City of Springfield, with the recorded images produced by a traffic control photographic system shall be prima facie evidence of the facts contained therein and shall be admissible in a proceeding alleging a violation under this section. Adjudication of liability shall be based on a preponderance of the evidence.
 2. If the Hearing Officer finds sufficient evidence of a violation, but the owner or the responsible party is not liable, the Hearing Officer shall, in writing, issue a decision finding the individual not liable and submit it to the Police Division or its designee.
- (2) If the owner or responsible party chooses to contest the notice of liability, the Hearing Officer may consider any of the following as an affirmative defense of a violation:
- A. That the driver of the vehicle passed through the intersection in order to yield the right-of-way to an emergency vehicle in accordance with Ohio Revised Code Section 4511.45, or to a funeral procession in accordance with Section 331.24.
 - B. That the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation. In order to demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a police report about the stolen motor vehicle or registration plates was filed prior to the violation or within 48 hours after the violation occurred.

- C. That this section is unenforceable because at the time and place of the alleged violation, the traffic control signal was not operating properly or the traffic control signal monitoring system was not in proper position and the recorded image is not legible enough to determine the information needed.
 - D. Evidence, other than that adduced pursuant to subsection (e)(2)B. of this section, that the owner or person named in the notice of liability was not operating the vehicle at the time of the violation. To satisfy the evidentiary burden under this subsection, the owner or person named in the notice of liability shall provide to the Hearing Office evidence showing the identity of the person who was operating the vehicle at the time of the violation, including, at a minimum, the operator's name and current address, and any other evidence that the Hearing Officer deems pertinent.
- (3) If the Hearing Officer finds that the person or entity named in the notice of liability was not operating the vehicle at the time of the violation or receives evidence under subsection (e)(2)D. identifying the person driving the vehicle at the time of the violation, the Hearing Officer shall provide to the Police Division or its designee within five (5) calendar days, a copy of any evidence substantiating who was operating the vehicle at the time of the violation.
- A. Upon the receipt of evidence of the responsible party pursuant to this subsection or pursuant to subsection (c)(2)A., the Police Division or its designee may issue a notice of liability, with the name and address of the responsible party and the information required by subsection (d)(1)B., C., D., E., F., G., H., I., and J. of this section, to the person that the evidence indicates was operating the vehicle at the time of the violation.
 - B. A notice of liability issued under this subsection (e)(3) shall be sent by ordinary mail no later than five (5) business days after receipt of the evidence from the Hearing Officer or the owner.
- (f) Civil Penalties.
- (1) Unless the driver of the motor vehicle received a citation from a police officer at the time of the violation, the owner or responsible party for the motor vehicle is subject to a civil penalty if the motor vehicle is recorded by an automated traffic control photographic system while being operated in violation of this section.
 - (2) The civil penalty under this section shall be \$100.00. Persons who choose to pay the civil penalty without appearing before a Hearing Officer may do so in the manner indicated on the notice of liability. Persons who fail to pay the civil penalty within fifteen (15) calendar days after receiving a "notice of liability" shall be liable for an additional penalty in the amount of \$30.00.
 - (3) A violation for which a civil penalty is imposed under this section is not a moving violation for the purpose of assessing points under Ohio Revised Code Section 4507.021(16) for minor misdemeanor moving traffic offenses and shall not be recorded on the driving record of the owner or operator of the vehicle and shall not be reported to the Bureau of Motor Vehicles.
- (g) Collection of Civil Penalty. If the civil penalty is not paid, the civil penalty imposed under the provisions of this section shall be collectible, together with any interest and penalties thereon, by civil suit. (Ord. 05-41. Passed 2-15-05.)

303.99 GENERAL TRAFFIC CODE PENALTIES.

(a) General Misdemeanor Classifications. Whoever violates any provision of this Traffic Code for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor.
(ORC 4513.99)

(b) Penalties. Whoever is convicted of or pleads guilty to a violation of this Traffic Code shall be imprisoned for a definite term or fined, or both, which term of imprisonment and fine shall be fixed by the court as provided in this section.

<u>Classification of Misdemeanor</u>	<u>Maximum Term of Imprisonment</u>	<u>Maximum Fine</u>
First degree	180 days	\$1,000.00
Second degree	90 days	750.00
Third degree	60 days	500.00
Fourth degree	30 days	250.00
Minor (ORC 2929.24; 2929.28)	No imprisonment	150.00