

AN ORDINANCE AMENDING SECTIONS 333.01(a)(2), (3), (4); (b)(1), (2), (3); (d)(2); (e)(5); (e)(5)C; (h)(1); AND (h)(2) OF THE TRAFFIC CONTROL CODE CONFORMING THE DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE ORDINANCE TO THE NEW STATE LAW AND DECLARING AN EMERGENCY

WHEREAS, House Bill 87 has amended O.R.C. §4511.19(A) to go into effect July 1, 2003.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, Summit County, State of Ohio:

SECTION 1. That Section 333.01 of the Traffic Code be amended to read as follows:

“333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.

(a) Driving Under the Influence. No person shall operate any vehicle within this Municipality if any of the following apply:

- (1) * * *
- (2) The person has a concentration of ~~0.10%~~ 0.08% or more but less than 0.17% by weight of alcohol in the person’s blood.
- (3) The person has a concentration of ~~0.10~~ 0.08 grams or more but less than 0.17 grams by weight of alcohol per 210 liters of the person’s breath.
- (4) The person has a concentration of ~~0.14~~ 0.11 grams or more but less than 0.238 grams by weight of alcohol per 100 milliliters of the person’s urine.
- (5) * * *
- (6) * * *
- (7) * * *

(b) Underage Alcohol Consumption. No person under 21 years of age shall operate any vehicle within this Municipality if any of the following apply:

- (1) The person has a concentration of at least 0.02% but less than ~~0.10%~~ 0.08% by weight of alcohol in the person’s blood;
- (2) The person has a concentration of at least 0.02 grams but less than ~~0.10~~ 0.08 grams by weight of alcohol per 210 liters of the person’s breath;
- (3) The person has a concentration of at least 0.028 grams but less than ~~0.14~~ 0.11 grams by weight of alcohol per 100 milliliters of the person’s urine.

(c) Prosecution; Limitation on Convictions. * * *

(d) Evidence; Tests.

(1) * * *

(2) In a criminal prosecution for a violation of division (a) of this section, if there was at the time the bodily substance was withdrawn a concentration of less than ~~0.10%~~ 0.08% by weight of alcohol in the defendant's blood, less than ~~0.10~~ 0.08 grams by weight of alcohol per 210 liters of the defendant's breath, or less than ~~0.14~~ 0.11 grams by weight of alcohol per 100 milliliters of the defendant's urine, such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This division does not limit or affect a criminal prosecution for a violation of division (b) of this section.

(3) * * *

(4) * * *

(e) Implied Consent.

(1) * * *

(2) * * *

(3) * * *

(4) * * *

(5) Actions Required by Arresting Officers. If a person under arrest as described in division (e)(3) of this section is not asked by a police officer to submit to a chemical test designated as provided in division (e)(1) of this section, the arresting officer shall seize the state or out-of-state driver's or commercial driver's license or permit of the person and immediately forward the seized license or permit to the court in which the arrested person is to appear on the charge for which he or she was arrested. If the arrested person does not have the person's driver's or commercial driver's license or permit on the person's self or in the person's vehicle, the arresting officer shall order him or her to surrender it to the law enforcement agency that employs the officer within 24 hours after the arrest, and upon the surrender, the officer's employing agency immediately shall forward the license or permit to the court in which the arrested person is to appear on the charge for which he or she was arrested. Upon receipt of the license or permit, the court shall retain it pending the initial appearance of the arrested person and any action taken under Ohio R.C. 4511.196. If a person under arrest as described in division (e)(3) of this section is asked by a police officer to submit to a chemical test designated as provided in division (e)(1) above and is advised of the consequences of his or her refusal or submission as provided in division (e)(3) above, and if the person either refuses to submit to the designated chemical test or the person submits to the designated chemical test and the test results indicate that his

or her blood contained a concentration of ~~0.10%~~ 0.08% or more by weight of alcohol, his or her breath contained a concentration of ~~0.10~~ 0.08 grams or more by weight of alcohol per 210 liters of his or her breath, or his or her urine contained a concentration of ~~0.14~~ 0.11 grams or more by weight of alcohol per 100 milliliters of his or her urine at the time of the alleged offense, the arresting officer shall do all of the following:

- A. * * *
- B. * * *
- C. * * *

- 1. * * *
- 2. * * *
- 3. * * *
- 4.

That the person refused to submit to the chemical test or that the person submitted to the chemical test and the test results indicate that his or her blood contained a concentration of ~~0.10%~~ 0.08% or more by weight of alcohol, his or her breath contained a concentration of ~~0.10~~ 0.08 grams or more by weight of alcohol per 210 liters of his or her breath, or his or her urine contained a concentration of ~~0.14~~ 0.11 grams or more by weight of alcohol per 100 milliliters of his or her urine at the time of the alleged offense;

- 5. * * *

(6) Sworn Report of Arresting Officer.

- A. * * *
- B. * * *

(7) Suspension Effective Immediately. * * *

(8) Initial Appearance. * * *

(f) Penalty for Driving Under the Influence. * * *

- (1) * * *
- (2) * * *

(g) Penalty for Operating a Motor Vehicle After Underage Alcohol Consumption.

- (1) * * *
- (2) * * *

(h) Physical Control.

- (1) Generally. No person shall be in actual physical control of any vehicle within this Municipality if any of the following apply:
 - A. * * *

- B. The person has a concentration of ~~0.10%~~ 0.08% or more but less than 0.17% by weight of alcohol in the person's blood.
 - C. The person has a concentration of ~~0.10~~ 0.08 grams or more but less than 0.17 grams by weight of alcohol per 210 liters of the person's breath.
 - D. The person has a concentration of ~~0.14~~ 0.11 grams or more but less than 0.238 grams by weight of alcohol per 100 milliliters of the person's urine.
 - E. * * *
 - F. * * *
 - G. * * *
- (2) Underage Alcohol Consumption. No person under 21 years of age shall be in actual physical control of any vehicle within this Municipality if any of the following apply:
- A. The person has a concentration of at least 0.02% but less than ~~0.10%~~ 0.08% by weight of alcohol in the person's blood;
 - B. The person has a concentration of at least 0.02 grams but less than ~~0.10~~ 0.08 grams by weight of alcohol per 210 liters of the person's breath;
 - C. The person has a concentration of at least 0.028 grams but less than ~~0.14~~ 0.11 grams by weight of alcohol per 100 milliliters of the person's urine.
- (3) Prosecution; Limitation on Convictions. * * *
- (4) Penalty. * * *

SECTION 2. That Section 333.01 of the Traffic Code as it existed prior to the effective date of this Ordinance be, and the same hereby is, repealed.

SECTION 3. This Ordinance shall take effect July 1, 2003.

PASSED: July 15, 2003

Michael J. Jones
President of Council

Donald H. Jensen
Mayor

Dated: 7/21/2003

ATTEST:
Carole Gibson
Clerk of Council