

AN ORDINANCE TO AMEND CERTAIN SECTIONS IN THE TRAFFIC CODE TO COMPLY WITH CURRENT STATE LAW AND DECLARING AN EMERGENCY

WHEREAS, Am. Sub. Senate Bill 432 has revised the State law relating to operating a vehicle in a reckless manner or while under the influence of alcohol, a drug of abuse or both, effective March 16, 1983.

WHEREAS, the Ohio Constitution requires ordinances which are enacted as an exercise of the Municipality's police powers to comply with general State law; now therefore,

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF RICHFIELD, COUNTY OF SUMMIT, STATE OF OHIO:

Section 1. That Sections 333.01, 333.02 and 335.07 of the Traffic Code are hereby amended and Section 333.08 added to read as follows:

333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE; EVIDENCE.

(a) Operation. No person shall operate any vehicle within the Municipality if any of the following apply:

- (1) The person is under the influence of alcohol or any drug of abuse, or the combined influence of alcohol and any drug of abuse;
- (2) The person has a concentration of ten-hundredths of one percent (0.10%) or more by weight of alcohol in his blood;
- (3) The person has a concentration of ten-hundredths (0.10) of one gram or more by weight of alcohol per 210 liters of his breath;
- (4) The person has a concentration of fourteen-hundredths (0.14) of one gram or more by weight of alcohol per 100 milliliters of his urine. (ORC 4511.19)

(b) Physical Control. No person shall be in actual physical control of any vehicle within the Municipality if any of the following apply:

- (1) The person is under the influence of alcohol or any drug of abuse, or the combined influence of alcohol and any drug of abuse;
- (2) The person has a concentration of ten-hundredths of one percent (0.10%) or more by weight of alcohol in his blood;
- (3) The person has a concentration of ten-hundredths (0.10) of one gram or more by weight of alcohol per 210 liters of his breath;
- (4) The person has a concentration of fourteen-hundredths (0.14) of one gram or more by weight of alcohol per 100 milliliters of his urine.

(c) Evidence; Tests; Immunity. In any criminal prosecution for a violation of this section relating to operating a motor vehicle while under the influence of alcohol, the court may admit evidence on the concentration of alcohol in the defendant's blood, breath or urine at the time of the alleged violation as shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance withdrawn within two hours of the time of such alleged violation.

When a person submits to a blood test at the request of a police officer under Ohio R.C. 4511.191, only a physician, a registered nurse or a qualified technician or chemist shall withdraw blood for the purpose of determining its alcoholic content. This limitation does not apply to the taking of breath or urine specimens. A physician, a registered nurse or a qualified technician or chemist may refuse to withdraw blood for the purpose of determining the alcohol content of the blood, if in his opinion the physical welfare of the person would be endangered by the withdrawal of blood.

Such bodily substance shall be analyzed in accordance with methods approved by the Ohio Director of Health by an individual possessing a valid permit issued by the Director of Health pursuant to Ohio R.C. 3701.143.

If there was at the time bodily substance was withdrawn a concentration of less than ten-hundredths of one percent (0.10%) by weight of alcohol in the defendant's blood, less than ten-hundredths (0.10) of one gram by weight of alcohol per 210 liters of his breath or less than fourteen-hundredths (0.14) of one gram by weight of alcohol per 100 milliliters of his urine, such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

Upon the request of the person who was tested, the results of such test shall be made available to him, his attorney or agent, immediately upon the completion of the test analysis.

The person tested may have a physician, a registered nurse or a qualified technician or chemist of his own choosing administer a chemical test or tests in addition to any administered at the direction of a police officer, and shall be so advised. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a police officer.

Any physician, registered nurse or qualified technician or chemist who withdraws blood from a person pursuant to this section, and any hospital, first-aid station or clinic at which blood is withdrawn from a person pursuant to this section, is immune from criminal liability, and from civil liability that is based upon a claim of assault and battery or based upon any other claim that is not in the nature of a claim of malpractice, for any act performed in withdrawing blood from the person. (ORC 4511.19)

333.02 OPERATION IN WILLFUL OR WANTON DISREGARD OF SAFETY.

(a) No person shall operate a vehicle on any street or highway in willful or wanton disregard of the safety of persons or property. (ORC 4511.20)

(b) No person shall operate a vehicle on any public or private property other than streets or highways, in willful or wanton disregard of the safety of persons or property.

This subsection does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon. (ORC 4511.201)

333.08 OPERATION WITHOUT REASONABLE CONTROL.

No person shall operate a motor vehicle on any street, highway or property open to the public for vehicular traffic without being in reasonable control of the vehicle. (ORC 4511.202)

335.07 DRIVING UNDER SUSPENSION OR REVOCATION.

(a) No person whose operator's or chauffeur's license or permit or non-resident operating privilege has been suspended or revoked under Ohio R.C. Chapter 4507 (Driver's License Law) or under applicable law in any other jurisdiction where the license or permit was issued, shall operate any motor vehicle upon the highways or streets in the Municipality while such license, permit or privilege is suspended or revoked. No person who is granted occupational driving privileges by any court shall operate any motor vehicle upon the highways or streets in the Municipality except in accordance with the terms of the privileges. (ORC 4507.38)

(b) No nonresident or other person whose operator's or chauffeur's license or permit or nonresident operating privilege has been suspended or revoked, shall operate a motor vehicle in the Municipality under a license, permit or registration certificate issued by any other jurisdiction, or otherwise operate a motor vehicle in the Municipality during a period of such suspension, or within one year after the date of such revocation. (ORC 4507.39)

(c) No person whose license or registration or nonresident's operating privilege has been suspended or revoked under Ohio R.C. Chapter 4509 (Financial Responsibility Law), shall, during such suspension or revocation, drive any motor vehicle upon any highway or street or knowingly permit any motor vehicle owned by such person to be operated by another upon any highway or street, except as permitted under such chapter. (ORC 4509.76)

(d) No person whose operator's or chauffeur's license or permit or non-resident operating privilege has been suspended under Ohio R.C. 4511.191 (Implied Consent Law) shall operate a motor vehicle upon the highways or streets in the Municipality. (ORC 4511.192)

(e) It is an affirmative defense to any prosecution brought pursuant to this section that the alleged offender drove under suspension because of a substantial emergency, provided that no other person was reasonably available to drive in response to the emergency. (ORC 4507.38; 4507.39, 4511.192)

Section 2. That former Sections 333.01, 333.02 and 335.07 are hereby repealed.

Section 3. That the provisions of Sections 1 and 2 of this ordinance shall take effect March 16, 1983.

Section 4. That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, welfare and safety and for the further reason that there exists an imperative necessity to amend the Traffic Code to comply with current State law.

Passed:

3/15/83

Rob R. Yell
President of Council

E. James Fisher
Mayor

Dated: 3-15-83

Attest:

Libby Fisher
Clerk of Council