

ORDINANCE NO. 1483.7

AN ORDINANCE AMENDING SECTION 73.01 OF ORDINANCE NO. 1981-4, KNOWN AS THE CODIFIED ORDINANCES OF THE VILLAGE OF HAMERSVILLE, AS SUPPLEMENTED BY ORDINANCE NO. 1983-4

BE IT ORDAINED by the Council of the Village of Hamersville, Brown County, Ohio, three-fourths or more of all members thereof concurring as follows:

SECTION I: That existing Section 73.01 of Ordinance No. 1981-4, known as The Codified Ordinances of the Village of Hamersville, as supplemented by Ordinance No. 1983-4, be, and the same hereby is, repealed.

SECTION II: That new Section 73.01 of Ordinance No. 1981-4, known as The Codified Ordinances of the Village of Hamersville, be, and the same is hereby enacted as a part of Title VII, Chapter 73, as follows:

§ 73.01 DRIVING WHILE INTOXICATED OR DRUGGED.

(A) No person shall operate any vehicle within this 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 .10 or more by weight of alcohol in his blood.

(3) The person has a concentration of ten-hundredths of one gram or more by weight of alcohol per 210 liters of his breath.

(4) The person has a concentration of fourteen-hundredths of one gram or more by weight of alcohol per 100 milliliters of his urine.

(B) In any criminal prosecution for a violation of this section, or of an ordinance of any municipality, 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the alleged violation as shown by chemical analysis of the defendant's blood, urine, breath, or other bodily substance withdrawn within 2 hours of the time of the alleged violation. When a person submits to a blood test at the request of a police officer under §73.011 or 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 withdrawing of blood.

(C) Such bodily substance shall be analyzed in accordance with methods approved by the director of health by an individual possessing a valid permit issued by the director of health pursuant to R.C. § 3701.143. If there was at the time bodily substance was withdrawn a concentration of less than .10 of 1% by weight of alcohol, in the defendant's blood, less than ten-hundredths of one gram by weight of alcohol per 210 liters of his breath, or less than fourteen-hundredths 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.

(D) 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.

(E) 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.

(F) 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. (R.C. §4511.19)

(G) Whoever violates this section is guilty of a misdemeanor of the first degree, in addition to the license suspension or revocation provided in R.C. § 4507.16.

SECTION III: This Ordinance is hereby declared to be an emergency ordinance necessary for the health, safety and welfare of the inhabitants of the Village of Hamersville, Ohio, and more particularly to insure that the finances of the Village remain sound and to permit discretion of the Judge in sentencing based on a case by case basis and this Ordinance shall be in full force and effect immediately upon its passage.

PASSED: 11-10-83

ATTEST:

Ray Elliott
Clerk

Charles H. Rhner
Mayor