



Joseph G. Aninao

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 80**

123rd General Assembly  
(As Introduced)

**Reps. Coughlin, Brading, Gardner, Haines, Jerse, Lucas, Metzger, Olman, Pringle, Terwilleger, Roman, Calvert, Evans, DePiero**

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### **BILL SUMMARY**

- Requires criminal forfeiture to the state, rather than impoundment for 180 days, of the motor vehicle operated by a person who commits a third state or local OMVI offense within a six-year period.

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### **CONTENT AND OPERATION**

***Penalty that must be imposed upon a person who is convicted under state law of a third OMVI offense within a six-year period***

#### **Current law**

Under current law, if a person is convicted of or pleads guilty to the state offense of operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or with a prohibited concentration of alcohol in his blood, breath, or urine (state OMVI), and the person, within six years of the offense, has been convicted of or pleaded guilty to two state, local, or federal OMVI offenses or specified alcohol-related and vehicle-related offenses, the judge must impose the following sanctions, among others (sec. 4511.99(A)(3)):

(1) The offender must serve a term of imprisonment of at least 30 consecutive days, with a term of one year permissible. Under certain conditions, the judge may sentence the offender to a term of imprisonment of 15 consecutive days and not less than 55 consecutive days of electronically monitored house arrest (EMHA); the total period of imprisonment and EMHA cannot exceed one year.

(2) A fine of not less than \$500 and not more than \$2,500;

(3) Mandatory attendance by the offender at an authorized alcohol and drug addiction program;

(4) Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the judge must order the vehicle to be immobilized for 180 days and its license plates impounded for a similar period. The order for immobilization and impoundment must be issued and enforced in accordance with current law. (Sec. 4511.99(A)(3)(b).)

### **Operation of the bill**

The bill does not affect sanctions (1) to (3) described above for an OMVI offender with two prior OMVI or alcohol-related and vehicle-related convictions, but it does alter sanction (4) for that type of offender. It eliminates vehicle immobilization and license plate impoundment as a sanction that must be imposed upon a third-time OMVI offender who is charged under state law and provides that regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the judge must order the criminal forfeiture to the state of the vehicle. The order of criminal forfeiture must be issued and enforced in accordance with current law.

Such an order of criminal forfeiture is one sanction that current law unaffected by the bill requires be imposed upon a person who is convicted of or pleads guilty to a state OMVI offense and, within six years of the offense, has been convicted of or pleaded guilty to three or more state, local, or federal OMVI offenses or specified alcohol-related and vehicle-related offenses, or a state OMVI offense that was a felony offense, regardless of when the state OMVI felony offense occurred. Under this law, such a person is guilty of a felony of the fourth degree. The result under the bill is that an order of criminal forfeiture must be issued in a case involving a state OMVI offender who is a third or subsequent OMVI offender.

### **State-specified penalty that must be imposed upon a person who is convicted under a municipal ordinance of a third OMVI offense within a six-year period**

#### **Current law**

Under current law, if a person is convicted of or pleads guilty to local OMVI and, within six years of the offense, has been convicted of or pleaded guilty to two state, local, or federal OMVI offenses or specified alcohol-related and vehicle-related offenses, the judge, in addition to any other penalties specified in municipal ordinance or state statute, must order the vehicle the offender was operating at the time of the offense immobilized for 180 days and its license plates impounded for a similar period. The order for immobilization and impoundment

must be issued and enforced in accordance with current law. (Sec. 4511.193(B)(2)(b).)

**Operation of the bill**

The bill eliminates vehicle immobilization and license plate impoundment as a sanction that must be imposed upon a third-time local OMVI offender, and requires the judge to order the criminal forfeiture to the state of the vehicle the offender was operating at the time of the offense. The order of criminal forfeiture must be issued and enforced in accordance with current law.

Such an order of criminal forfeiture is one sanction that current law unaffected by the bill requires be imposed upon a person who is convicted of or pleads guilty to local OMVI and, within six years of the current offense, has been convicted of or pleaded guilty to three or more state, local, or federal OMVI offenses or specified alcohol-related and vehicle-related offenses, or a state OMVI offense that was a felony offense, regardless of when the state OMVI felony offense occurred. The result under the bill is that an order of criminal forfeiture must be issued in a case involving a local OMVI offender who is a third or subsequent OMVI offender. (Sec. 4511.193(B)(2)(b).)

**Miscellaneous changes**

R.C. 4503.233 contains language to harmonize amendments that were made to that section by Am. Sub. H.B. 353 and Am. Sub. H.B. 676, both of the 121st General Assembly.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	01-22-99	p. 115

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