



Dennis M. Papp

Bill Analysis
Legislative Service Commission

Am. H.B. 80
123rd General Assembly
(As Reported by S. Judiciary)

Reps. Coughlin, Brading, Gardner, Haines, Jerse, Lucas, Metzger, Olman, Pringle, Terwilleger, Roman, Calvert, Evans, DePiero, Krupinski, Mead, Damschroder, Myers, Trakas, Williams, Peterson, Verich, Goodman, Thomas, Vesper, Maier, Tiberi, Harris, Opfer, Logan, O'Brien, Clancy, Bateman, Allen, Young, Grendell, Hoops, Winkler, Hartnett, Patton, Taylor

Sen. Latta

BILL SUMMARY

- Requires criminal forfeiture to the state, rather than immobilization and license plate impoundment for 180 days, of the motor vehicle operated by a person who is convicted of a third state or municipal OMVI offense within a six-year period.

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 or her blood, breath, or urine (state OMVI, set forth in R.C. 4511.19(A)), and the person, within six years of the offense, previously has been convicted of or pleaded guilty to two state, municipal, or federal OMVI offenses or specified alcohol-related and vehicle-related offenses, the judge must impose the following sanctions, among others (R.C. 4511.99(A)(3)):

(1) 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 immobilization of the vehicle for 180 days and the impoundment of its license plates for the same period. The order for immobilization and impoundment must be issued and enforced in accordance with specified provisions of current law, including an "innocent owner" exception.

Operation of the bill

The bill does not change sanctions (1) to (3) described above for a state OMVI offender with two prior state, municipal, or federal OMVI or alcohol-related and vehicle-related convictions within the preceding six years, 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 such an offender and, instead, 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 specified provisions of current law, including the "innocent owner" exception. (R.C. 4511.99(A)(3)(b).)

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 to whom either of the following applies: (1) within six years of the offense, the person previously has been convicted of or pleaded guilty to three or more state, municipal, or federal OMVI offenses or specified alcohol-related and vehicle-related offenses, or (2) the person previously has been convicted of or pleaded guilty to a state OMVI offense that was a felony offense, regardless of when the state OMVI felony offense and the conviction occurred. Under this law, such a person is guilty of a felony of the fourth degree. (R.C. 4511.99(A)(4).) 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 offender (R.C. 4511.99(A)(3) and (4)).



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 a violation of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or both, or relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine (municipal OMVI) and the person, within six years of the offense, previously has been convicted of or pleaded guilty to two state, municipal, 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 and regardless of who owns the vehicle, must order the vehicle the offender was operating at the time of the offense immobilized for 180 days and its license plates impounded for the same period. The order for immobilization and impoundment must be issued and enforced in accordance with specified provisions of current law, including an "innocent owner" exception. (R.C. 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 municipal OMVI offender with two prior state, municipal, or federal OMVI or alcohol-related and vehicle-related convictions within the preceding six years, and, instead, requires the judge to order the criminal forfeiture to the state of the vehicle the offender was operating at the time of the offense, regardless of who owns the vehicle. The order of criminal forfeiture must be issued and enforced in accordance with specified provisions of current law, including the "innocent owner" exception. (R.C. 4511.193(B)(2)(b).)

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 municipal OMVI and to whom either of the following applies: (1) within six years of the offense, the person previously has been convicted of or pleaded guilty to three or more state, municipal, or federal OMVI offenses or specified alcohol-related and vehicle-related offenses, or (2) the person previously has been convicted of or pleaded guilty to a state OMVI offense that was a felony offense, regardless of when the state OMVI felony offense and the conviction occurred. The result under the bill is that an order of criminal forfeiture must be issued in a case involving a municipal OMVI offender who is a third or subsequent OMVI offender. (R.C. 4511.193(B)(2)(b).)

Miscellaneous changes

The bill includes in R.C. 4503.233 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. The harmonization is technical in nature.

The bill also modifies statutory cross-references contained in R.C. 4503.233(A)(2) and 4507.164 to conform them to the bill's changes described above regarding state and municipal OMVI sanctions.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-22-99	p. 115
Reported, H. Transportation & Public Safety	03-24-99	p. 364
Passed House (94-3)	04-21-99	pp. 449-450
Reported, S. Judiciary	01-13-00	p. 1310

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