



David M. Gold

Bill Analysis
Legislative Service Commission

H.B. 271

126th General Assembly
(As Introduced)

Reps. Bubp, Hood, Martin, McGregor, Uecker, Key, S. Patton

BILL SUMMARY

- Eliminates as a penalty for the offense of "driving under financial responsibility law suspension or cancellation" or for a violation of a substantially similar municipal ordinance the immobilization of the motor vehicle used in the offense, the impoundment of that vehicle's license plates, and the criminal forfeiture of that vehicle to the state.

CONTENT AND OPERATION

Suspension of driving privileges for financial responsibility violations

Chapter 4509. of the Revised Code deals with the financial responsibility of motor vehicle owners and operators. Among other things, R.C. 4509.101 prohibits a person from operating or permitting the operation of a motor vehicle in Ohio unless proof of financial responsibility is maintained continuously throughout the vehicle's registration period or with respect to the driver's operation of another's vehicle. Proof of responsibility usually takes the form of liability insurance. The chapter also provides for the suspension or cancellation of the driving privileges of a person who violates specified motor vehicle laws. A person whose driving privileges are suspended for not maintaining proof of financial responsibility can have the privileges reinstated on certain conditions, one of which is that the person file and maintain proof of financial responsibility with the Bureau of Motor Vehicles (BMV) for three or five years from the date of suspension, depending on the duration of the suspension (R.C. 4509.101, 4509.31, and 4509.45--not in the bill).

Immobilization of motor vehicles for financial responsibility violations

Prohibitions

Existing law (1) prohibits a person whose driver's or commercial driver's license, temporary instruction permit, or nonresident's operating privilege has been

suspended or canceled pursuant to Chapter 4509. from operating any motor vehicle in Ohio, or knowingly permitting any motor vehicle the person owns to be operated by another person in Ohio, during the period of the suspension or cancellation, except as specifically authorized by Chapter 4509., and (2) prohibits a person from operating a motor vehicle within this state, or knowingly permitting any motor vehicle owned by the person to be operated by another person in the state, during the period in which the person is required to file and maintain proof of financial responsibility with the BMV for a violation of R.C. 4509.101, unless proof of financial responsibility is maintained with respect to that vehicle (R.C. 4510.16(A)).

Criminal offense; fine

A violation of the foregoing provisions is the offense of "driving under financial responsibility law suspension or cancellation," a misdemeanor of the first degree. As part of the sentence, the court must impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege for a definite period of time not exceeding one year. (R.C. 4510.16(B)(1).)

Immobilization and impoundment

Existing law. In addition to or independently of any other sentence the court imposes, if the vehicle is registered in the offender's name, the court must do one of the following (R.C. 4510.16(B)(2)):

(1) Except as otherwise provided in paragraph (2) or (3), order the immobilization of the vehicle, and impoundment of the vehicle's license plates, for 30 days;

(2) If within five years of the offense, the offender has been convicted of or pleaded guilty once to "driving under financial responsibility law suspension or cancellation" or a substantially similar municipal ordinance, order the immobilization of the vehicle, and impoundment of the vehicle's license plates, for 60 days;

(3) If, within five years of the offense, the offender has been convicted of or pleaded guilty two or more times to "driving under financial responsibility law suspension or cancellation" or a substantially similar municipal ordinance, order the criminal forfeiture of the vehicle to the state. If title to a motor vehicle that is subject to an order for criminal forfeiture is assigned or transferred and certain lienholders or other persons interested in the vehicle neither knew nor had reason to know that the vehicle would be used in the violation (R.C. 4503.234(B)(2) and (3)--not in the bill), in addition to or independent of any other penalty established

by law, the court may fine the offender the value of the vehicle as determined by publications of the National Auto Dealers Association. The proceeds from any fine must be applied to the costs of seizing, storing, and selling the vehicle, the payment of liens and other ownership interests in the vehicle, and designated public funds (not exceeding \$1,000) with the remainder going to other designated public funds, in accordance with R.C. 4503.234(C)(2) (not in the bill).

The court may not release a vehicle from immobilization orders issued for "driving under financial responsibility law suspension or cancellation" unless it is presented with current proof of financial responsibility with respect to that vehicle (R.C. 4510.16(C)).

Existing law further provides that if a person is convicted of or pleads guilty to a municipal ordinance that is substantially equivalent to "driving under financial responsibility law suspension or cancellation" (see the first paragraph of this section, above) and if the vehicle the offender was operating at the time of the offense is registered in the offender's name, the court, in addition to and independent of any sentence that it imposes upon the offender, must do whichever of the following is applicable (R.C. 4510.161(B)):

(1) If, within five years of the current offense, the offender was not convicted of or did not plead guilty to "driving under financial responsibility law suspension or cancellation" or a municipal ordinance that is substantially equivalent to that offense, order the immobilization of the vehicle and impoundment of the vehicle's license plates for 30 days;

(2) If, within five years of the current offense, the offender was convicted of or pleaded guilty once to "driving under financial responsibility law suspension or cancellation" or a municipal ordinance that is substantially equivalent to that offense, order the immobilization of the vehicle and impoundment of the vehicle's license plates for 60 days;

(3) If, within five years of the current offense, the offender was convicted or pleaded guilty two or more times to "driving under financial responsibility law suspension or cancellation" or a municipal ordinance that is substantially equivalent to that offense, order the criminal forfeiture of the vehicle to the state in accordance with R.C. 4503.234.

When a person is convicted of or pleads guilty to "driving under financial law suspension or cancellation" or a substantially equivalent municipal ordinance and the above immobilization, impoundment, or forfeiture penalties apply, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence: (1) when applicable is required to order the immobilization of the vehicle used in the offense and impoundment of the identification license plates in

accordance with existing R.C. 4503.233 and 4510.16(B)(2) or (3) or 4510.161(B)(1) or (2) and may impound the identification license plates of other vehicles registered in the offender's name, and (2) when applicable is required to order the criminal forfeiture to the state of that vehicle in accordance with existing R.C. 4503.234 and 4510.16(B)(4) or 4510.161(B)(3) and may impound the identification license plates of other vehicles registered in the offender's name (R.C. 4507.164(D)).

Operation of the bill. The bill eliminates all of the foregoing provisions for the immobilization of vehicles and impoundment of license plates (existing R.C. 4507.164(D), 4510.16(B)(2) and (C), and 4510.161(B)).

Miscellaneous

The bill eliminates references in several sections of the Revised Code to the immobilization or criminal forfeiture of vehicles or the impoundment of license plates for "driving under financial responsibility law suspension or cancellation" pursuant to the provisions of R.C. 4510.16 or 4510.161 that are stricken by the bill (R.C. 4502.233(A)(1), 4503.234(A) and (E), 4507.02(B)(1), 4507.164(C)(2), and 4510.41).

COMMENT

R.C. 4507.02 has been amended since the bill was drafted. The amendment does not affect the substance of the bill, but the bill needs to be updated with the new version of R.C. 4507.02.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-18-05	pp. 841-842

H0271-i-126.doc/nlr