



**Sub. H.B. 271\***  
126th General Assembly  
(As Reported by H. Judiciary)

**Reps. Bulp, Hood, Martin, McGregor, Uecker, Key, S. Patton**

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**BILL SUMMARY**

- Makes immobilization of a vehicle and impoundment of its license plates for the offense of "driving under financial responsibility law suspension or cancellation" discretionary rather than mandatory when the offender has not more than one previous violation in the preceding five years.
- Authorizes the imposition of a fine equal to the value of the vehicle when title to a vehicle that is subject to an immobilization order is assigned or transferred without court approval.
- Authorizes an offender who cannot reasonably pay the fees required to reinstate suspended driving privileges to petition for a court-ordered payment plan.

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**CONTENT AND OPERATION**

**Existing law**

**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

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\* *This analysis was prepared before the report of the House Judiciary Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

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**

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**

#### **Elimination of mandatory immobilization**

The bill eliminates the mandatory immobilization of a vehicle and impoundment of its license plates when an offender to whom the vehicle involved is registered and who violates R.C. 4510.16(A) or a substantially similar municipal ordinance has not more than one previous violation of that type in the preceding five years. Under the bill, if the offender has no previous violations of that type within that time, the court *may* order immobilization and impoundment for *not more than* 30 days; if the offender has one previous violation of that type within that time, the court *may* order immobilization and impoundment for *not more than* 60 days. The bill retains mandatory criminal forfeiture of the vehicle for two or more violations of that type within five years of the offense, but it clarifies that the vehicle involved must be registered in the offender's name and that forfeiture is in addition to or independent of any other sentence. (R.C. 4510.16(B) and 4510.41.)

The bill repeals R.C. 4510.161.

#### **Fine for improper transfer of immobilized vehicle**

The bill authorizes the court to fine an offender who, without court approval, assigns or transfers the title to a motor vehicle that is subject to an immobilization order the value of the vehicle as determined by publications of the

National Auto Dealers Association. The fine is in addition to or independent of any other penalty established by law and is distributed in the same manner as the proceeds of the sale of a forfeited vehicle are distributed pursuant to R.C. 4503.234(C)(2). (R.C. 4503.233(D)(6).)

**Payment plan for payment of reinstatement fees**

Under existing law, when a municipal or county court determines in a pending case involving an offender that the offender cannot reasonably pay the fees required under various provisions of the Revised Code in order to reinstate suspended driving privileges, the court may establish a payment plan under which the offender pays in installments of at least \$50 per month or it may grant the offender limited driving privileges until some future date at which the fees must be paid in full. The bill eliminates the reference to pending cases and authorizes an offender who cannot reasonably pay the fees to file a petition for an order establishing one of the authorized payment plans. The petition may be filed in the municipal court, county court, or, if the offender is under 18, the juvenile division of the court of common pleas in whose jurisdiction the person resides or, if the person is not a resident of Ohio, in the Franklin County Municipal Court or the Juvenile Division of the Franklin County Court of Common Pleas. (R.C. 4510.10(C).)

**Miscellaneous**

The bill amends several sections of the Revised Code to conform them to the changes discussed above (R.C. 4503.233(A)(1), 4503.234(A) and (E), 4507.02(B)(1), and 4507.164(C)(1) and (D)).

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**HISTORY**

ACTION	DATE
Introduced	05-18-05
Reported, H. Judiciary	---

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