



H.B. 451

126th General Assembly
(As Introduced)

Reps. Domenick, Combs, Brown, Wagner, Hood, Allen

BILL SUMMARY

- Increases the penalty for "driving under OVI suspension" when the offender previously has been convicted of or pleaded guilty to two or more violations of driving under OVI suspension or two or more equivalent offenses from an unclassified misdemeanor to an unclassified felony.
- Provides that an offender who is convicted of or pleads guilty to driving under OVI suspension that is an unclassified felony is subject to a mandatory prison term of not less than one and not more than three years and a fine of not less than \$1,000 and not more than \$3,000.
- Removes the six-year "look back period" during which prior driving under OVI suspension or equivalent offense convictions or guilty pleas are considered in determining whether an offender charged with driving under OVI suspension has been convicted of or pleaded guilty to two or more such convictions or guilty pleas.
- Specifies that the mayor of a municipal corporation does not have jurisdiction to hear and determine any prosecution or criminal cause involving driving under OVI suspension if the offender has been convicted of or pleaded guilty to two or more violations of driving under OVI suspension or two or more equivalent offenses.

CONTENT AND OPERATION

Driving under OVI suspension

Under current law, unchanged by the bill, a person commits the offense of driving under OVI suspension if the person operates any motor vehicle upon the

public roads or highways of Ohio during a period when the person's driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under R.C. 4511.19 (state OVI and state OVUAC), 4511.191 (vehicle implied consent law suspension), 4511.196 (additional suspension for a violation of the vehicle implied consent law), or 4510.07 for a conviction of a violation of a municipal OVI ordinance (R.C. 4510.14(A)).

Penalty under current law

Under current law, driving under OVI suspension is generally a misdemeanor of the first degree, and the court must sentence the offender to all of the following (R.C. 4510.14(B)(1)):

- (1) A mandatory jail term of three consecutive days or at least 30 consecutive days of house arrest with electronic monitoring if there is insufficient jail space during the 60-day period following the date of sentencing. In no case may the jail term or house arrest last longer than six months.
- (2) A fine of not less than \$250 and not more than \$1,000.
- (3) A Class 7 license suspension (a definite period not to exceed one year).
- (4) If the vehicle the offender was operating at the time of the offense is registered in the offender's name, immobilization for 30 days of the offender's vehicle and impoundment for 30 days of the identification license plates of that vehicle.

If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of driving under OVI suspension or one equivalent offense, driving under OVI suspension is a misdemeanor of the first degree, and the court must sentence the offender to all of the following (R.C. 4510.14(B)(2)):¹

(1) A mandatory jail term of ten consecutive days or at least 90 consecutive days of house arrest with electronic monitoring if there is insufficient jail space during the 60-day period following the date of sentencing. In no case may the jail term or house arrest last longer than one year.

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

¹ "Equivalent offense" means either of the following: (1) a violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to driving under OVI suspension, or (2) a violation of a former law of Ohio that was substantially equivalent to driving under OVI suspension (R.C. 4510.14(F)(2)).

(3) A Class 7 license suspension (a definite period not to exceed one year).

(4) If the vehicle the offender was operating at the time of the offense is registered in the offender's name, immobilization for 60 days of the offender's vehicle and impoundment for 60 days of the identification license plates of that vehicle.

If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of driving under OVI suspension or two or more equivalent offenses, driving under OVI suspension is a misdemeanor, and the court must sentence the offender to all of the following (R.C. 4510.14(B)(3)):

(1) A mandatory jail term of 30 consecutive days. In no case may the jail term last longer than one year. House arrest with electronic monitoring is not permitted.

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

(3) A Class 7 license suspension (a definite period not to exceed one year).

(4) If the vehicle the offender was operating at the time of the offense is registered in the offender's name, criminal forfeiture of the offender's vehicle.

Penalty under the bill

The bill increases the penalty for driving under OVI suspension when the offender previously has been convicted of or pleaded guilty to *two or more* violations of driving under OVI suspension or two or more equivalent offenses by changing the offense from an unclassified misdemeanor to an unclassified felony and by removing the six-year look back period. Under the bill, if the offender previously has been convicted of or pleaded guilty to two or more violations of driving under OVI suspension or two or more equivalent offenses, driving under OVI suspension is a felony, and the court must sentence the offender to all of the following (R.C. 4510.14(B)(3)):

(1) A mandatory prison term of not less than one and not more than three years (*increased from a mandatory jail term of at least 30 consecutive days and not more than one year under current law*).

(2) A fine of not less than \$1,000 and not more than \$3,000 (*increased from a minimum of \$500 and a maximum of \$2,500 under current law*).

(3) A Class 7 license suspension (a definite period not to exceed one year) (*no change from current law*).



(4) If the vehicle the offender was operating at the time of the offense is registered in the offender's name, criminal forfeiture of the offender's vehicle (*no change from current law*).

The mandatory prison term imposed on an offender for driving under OVI suspension when the offender has two or more prior convictions or guilty pleas may not be reduced pursuant to R.C. 2929.20, 2967.193, or any other provision of R.C. Chapter 2967. or 5120. Also, a court may not impose more than one mandatory prison term on an offender for driving under OVI suspension in this circumstance for felonies committed as part of the same act. (R.C. 2929.13(F)(15) and 2929.14(D)(7).)

Jurisdiction of a mayor over driving under OVI suspension cases

Current law

Under current law, the mayor of a municipal corporation in which a municipal court is not located generally has jurisdiction to hear and determine a prosecution or criminal cause involving driving under OVI suspension that occurs on a state highway located within the boundaries of the municipal corporation only if the person charged with the violation, within six years of the date of the violation charged, has not been convicted of or pleaded guilty to any of the following (R.C. 1905.01(C)(1)(b)):

(1) Driving under OVI suspension;

(2) A violation of a municipal ordinance that is substantially equivalent to driving under OVI suspension;

(3) A violation of any municipal ordinance or section of the Revised Code that regulates the operation of vehicles, streetcars, and trackless trolleys upon the highways or streets in a case in which, after a charge against the person of a violation of a type described in paragraph (1) or (2) was dismissed or reduced, the person is convicted of or pleads guilty to a violation that arose out of the same facts and circumstances and the same act as did the charge that was dismissed or reduced.

Also, the mayor of a municipal corporation does not have jurisdiction to hear and determine any prosecution or criminal cause involving a violation of driving under OVI suspension or a violation of a municipal ordinance that is substantially equivalent to driving under OVI suspension if the person charged with the violation, within six years of the violation charged, has been convicted of or pleaded guilty to any violation listed in paragraphs (1), (2), or (3), above, and does not have jurisdiction to hear and determine any prosecution or criminal cause

involving a violation of driving under OVI suspension or a violation of a municipal ordinance that is substantially equivalent to driving under OVI suspension if the person charged with the violation, within six years of the violation charged, has been convicted of or pleaded guilty to any violation listed in paragraphs (1), (2), or (3), above.

The bill

The bill additionally specifies that the mayor of a municipal corporation does not have jurisdiction to hear and determine any prosecution or criminal cause involving driving under OVI suspension if the offender has been convicted of or pleaded guilty to two or more violations of driving under OVI suspension or two or more equivalent offenses (R.C. 1905.01(C)(1)(b) and (2)).

HISTORY

ACTION	DATE
Introduced	12-15-05

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