



Ohio Legislative Service Commission

Bill Analysis

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S.B. 77

130th General Assembly
(As Introduced)

Sens. Hughes and Patton, LaRose, Cafaro, Gardner, Lehner, Widener

BILL SUMMARY

- Specifies that a person charged with driving the wrong way on a divided interstate highway in specified circumstances cannot resolve the charge by signing the ticket, citation, or summons to plead guilty and paying the fine and costs and, instead, must appear in court to answer the charge.
- Enhances the penalty for wrong-way driving on a divided interstate highway if the offender drove the wrong way as a proximate result of committing an OVI offense.
- Requires a driver's license suspension for driving the wrong way on a divided interstate highway for more than 500 feet or if that driving caused a collision that results in physical harm to another or death.
- Prohibits a person whose license has been suspended under the provision described in the preceding dot point from operating a motor vehicle during the period of the suspension and requires a definite jail or prison term and authorizes an increased fine for violating the prohibition.

CONTENT AND OPERATION

Overview

In Ohio, a person who operates a motor vehicle the wrong way on a street or highway may be charged under one of several traffic laws, depending on the situation. No single traffic law addresses wrong-way driving under all circumstances. (See "**Background**," below.) One specific situation that may be classified as wrong-way driving involves divided highways. Generally, a divided highway consists of a highway that has been divided into two roadways by an intervening space, by a

physical barrier, or by a clearly indicated dividing section. Existing law requires vehicles to be driven only on the right-hand roadway of a divided highway and prohibits any vehicle from being driven over, across, or within the dividing space, barrier, or section except through an opening, crossover, or intersection established by public authority, for purposes of an emergency stop, or in compliance with a police officer's order.¹ Under specified circumstances, the bill requires a court appearance and enhances the penalty and requires a court appearance for wrong-way driving on a divided interstate highway. The bill also creates a new offense of driving under a license suspension imposed for certain wrong-way driving.

The bill: wrong-way driving on a divided interstate highway

Court appearance

Generally, a person who is charged with a moving traffic violation may dispose of the violation through the appropriate court's Traffic Violations Bureau by signing the guilty plea to the violation and waiver of trial that is on the traffic ticket and paying the fine and costs specified for the violation. In that case, the offender does not need to appear in court. This option is not available for any of a list of specified, serious violations.²

Under the bill, a person cannot sign a ticket, citation, or summons to plead guilty and must appear in court to answer a charge of driving the wrong way on a divided highway under the provision described above in "**Overview**" if the ticket, citation, or summons indicates that the person operated a motor vehicle upon the left-hand roadway of a divided "interstate highway" (see "**Definitions**," below) under one of the following conditions:

- (1) For a distance of 500 feet or more;
- (2) For any distance, while committing a state OVI offense (a violation of R.C. 4511.19(A)) or a substantially equivalent municipal OVI offense; or
- (3) For any distance, if the person was involved in a motor vehicle collision on that left-hand roadway causing either "physical harm to another person" (see "**Definitions**," below) or the death of another person.³

¹ R.C. 4511.35(A).

² Traf. Rule 13. The ability to sign a traffic ticket depends on circumstances set forth in the Traffic Rules promulgated by the Ohio Supreme Court.

³ R.C. 4511.35(B).



Penalty for wrong-way driving with OVI offense

Driving the wrong way on a divided highway in violation of the provision described above in "**Overview**" generally is a minor misdemeanor, but it is a fourth degree misdemeanor if the offender within the preceding year previously has been convicted of any of a list of specified "predicate traffic offenses" (a defined term), and it is a third degree misdemeanor if the offender within the preceding year previously has been convicted of two or more of those offenses.⁴ The bill retains these penalties, except in regard to operating a motor vehicle upon the left-hand roadway of a divided interstate highway in violation of the provision as a proximate result of committing a state or municipal OVI offense. In this circumstance, a wrong way violation as a proximate result of committing the OVI offense is a fourth degree felony.⁵

License suspension

The bill requires the sentencing court to impose a mandatory driver's license suspension for operating a motor vehicle upon the left-hand roadway of a divided interstate highway in violation of the provision described above in "**Overview**" as follows:

(1) For a definite period not to exceed one year (Class 7 suspension) upon the trier of fact finding that the person operated a motor vehicle in that situation for a distance of 500 feet or more; and

(2) For a definite period of one to five years (Class 3 suspension) upon the trier of fact finding that the person operated a motor vehicle in that situation for any distance and was involved in a motor vehicle collision that occurred on that left-hand roadway and the collision caused either physical harm to another person or the death of another person.⁶

The mandatory suspensions described above are in addition to any other penalty that the sentencing court is required or permitted to impose on the offender.⁷ Under current law, the sentence for an OVI violation already has a license suspension component.⁸

⁴ R.C. 4511.35(C).

⁵ R.C. 4511.35(C)(2).

⁶ R.C. 4511.35(D).

⁷ R.C. 4511.35(D).

⁸ R.C. 4511.19 (not in the bill).



Driving in violation of the wrong-way license suspension

In addition to establishing license suspensions for specified wrong-way driving violations as described above, the bill prohibits a person whose driver's license has been suspended under either of those suspensions from operating a motor vehicle upon the state's public roads or highways during the period of the suspension and establishes penalties for the offense. Under the bill, a person who drives in violation of the Class 7 license suspension described above is guilty of the offense of "driving under suspension imposed for driving the wrong way on an interstate freeway," a misdemeanor. The court is required to sentence that offender to a jail term of one year and may impose a fine of not more than \$1,000. A person who drives in violation of a Class 3 license suspension described above is guilty of the offense of "driving under suspension imposed for driving the wrong way on an interstate freeway and causing a person harm," a third degree felony. The court is required to sentence the offender to a definite prison term of three years and may impose a fine of not more than \$10,000 for the violation.⁹

Existing law, unchanged by the bill, includes a general prohibition against operating a motor vehicle upon the public roads or highways during the period of a driver's license or nonresident operating privilege suspension imposed under any provision of the Revised Code other than the state's Financial Responsibility Law. The prohibition does not apply if the person has been granted limited driving privileges and is operating the vehicle in accordance with the terms of those privileges. A violation of the prohibition is a first degree misdemeanor. The sentencing court may impose upon the offender a Class 7 suspension (a definite period not to exceed one year) of his or her driver's license or nonresident operating privilege. If the vehicle is registered in the offender's name and if within the preceding three years the offender previously has been convicted of one or more violations of the prohibition or another specified violation, in addition to any other penalty it imposes, the sentencing court also may order either the immobilization of the vehicle and impoundment of its license plates for a specified number of days or the forfeiture of the vehicle. The determination of whether the sanction is to be immobilization or forfeiture depends upon the number of prior convictions within the specified three-year period.¹⁰ If a person who is subject to the bill's prohibition described in the preceding paragraph drives in violation of that prohibition, the sanctions and other provisions described in that paragraph apparently would apply instead of the provisions described in this paragraph.

⁹ R.C. 4510.19.

¹⁰ R.C. 4510.11 (not in the bill); also R.C. 4507.02(B) (not in the bill).



Definitions

As used in the bill:

"Interstate system" means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in 23 U.S.C. 103.¹¹ Under 23 U.S.C. 103, which is not in the bill, the Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico) consists of highways designed, located, and selected in accordance with its provisions; its provisions set forth detailed rules for designing, locating, selecting, and designating highways for the System. For purposes of simplification, this analysis uses the term **"interstate highway"** to mean a highway that is part of the **"interstate system."**

"Physical harm to another person" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.¹²

Background

As noted above, the Revised Code currently does not establish a specific offense of operating a vehicle the wrong way on a roadway, but a person who does so could be charged under any of the following provisions, depending on the circumstances:

- (1) Disobeying traffic control devices;¹³
- (2) Reckless operation;¹⁴
- (3) Driving in violation of specified lanes of travel on roadways;¹⁵
- (4) Driving in violation of rules for vehicles traveling in opposite directions;¹⁶
- (5) Driving in violation of rules for overtaking and passing of vehicles;¹⁷

¹¹ R.C. 4511.35(E), by reference to 23 U.S.C. 101 (not in the bill).

¹² R.C. 4511.35(E), by reference to R.C. 2901.01 (not in the bill).

¹³ R.C. 4511.12 (not in the bill).

¹⁴ R.C. 4511.20 (not in the bill).

¹⁵ R.C. 4511.25 (not in the bill).

¹⁶ R.C. 4511.26 (not in the bill).

¹⁷ R.C. 4511.27 (not in the bill).



- (6) Driving to the left of center line;¹⁸
- (7) Driving on the left side of a road;¹⁹
- (8) Driving in violation of one-way designation of a highway;²⁰ and
- (9) Driving in violation of rules for divided highways.²¹

Each of these offenses is a minor misdemeanor but may increase to a fourth or a third degree misdemeanor based on other specified traffic convictions within one year. Except for reckless operation, none of the offenses specifically requires a license suspension, although one may be imposed based an accumulation of twelve or more points against a person's license.²² A court may impose a license suspension of a definite period of six months to one year (a Class 5 license suspension) for a reckless operation conviction.²³

HISTORY

ACTION	DATE
Introduced	03-13-13

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¹⁸ R.C. 4511.29 (not in the bill).

¹⁹ R.C. 4511.30 (not in the bill).

²⁰ R.C. 4511.32 (not in the bill).

²¹ R.C. 4511.35.

²² R.C. 4510.037 (not in the bill).

²³ R.C. 4510.15 (not in the bill).

