Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL: **Am. Sub. S.B. 80** DATE: **May 12, 1998**

STATUS: **As Passed by the Senate** SPONSOR: **Sen. B. Johnson**

LOCAL IMPACT STATEMENT REQUIRED: **No — Corrected after initial review**

CONTENTS: **Termination of ALS suspension and increase to reinstatement fee**

State Fiscal Highlights

STATE FUND	FY 1998	FY 1999	FUTURE YEARS
Drivers' Treatment and Intervention Fund*			
Revenues	- 0 -	$326,200 gain	$326,200 gain
Expenditures	- 0 -	- 0 -	- 0 -
Reparations Fund			
Revenues	- 0 -	$217,500 gain	$217,500 gain
Expenditures	- 0 -	- 0 -	- 0 -
Indigent Drivers Alcohol Treatment Fund*			
Revenues	- 0 -	$108,700 gain	$108,700 gain
Expenditures	- 0 -	- 0 -	- 0 -
Services for Rehabilitation			
Revenues	- 0 -	$217,500 gain	$217,500 gain
Expenditures	- 0 -	- 0 -	- 0 -
Drug Abuse Resistance Education Programs Fund*			
Revenues	- 0 -	$217,500 gain	$217,500 gain
Expenditures	- 0 -	- 0 -	- 0 -

*Moneys received by these funds are passed onto local communities, less administrative expenses (except for the Indigent Fund).

- There would be a revenue gain to the five state funds that receive the reinstatement fee. The bill provides that the fee will be paid only once in all cases (whether a person takes the OMVI test and fails, or refuses to take the test), but also increases the fee from $280 to $405. Revenue estimates are based on the number of paid cases in FY 1996. *The revenue generated is dependent on the number of OMVI convictions and the number of paid cases.* It is unknown if the change in the fee will affect the number of persons who pay it.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998	FY 1999	FUTURE YEARS
Counties and municipalities			
Revenues	- 0 -	Potential gain	Potential gain
Expenditures	- 0 -	- 0 -	- 0 -

- Local communities would receive additional money from the *Drivers' Treatment and Intervention Fund*. These funds are distributed through the 53 Boards of Alcohol, Drug Addiction and Mental Health Services, and Alcohol and Drug Addiction Services Boards on a modified per capita basis.

- Local courts would receive additional money from the *Indigent Drivers Alcohol Treatment Fund* which is distributed through county and municipal indigent drivers treatment funds.

- Law enforcement agencies would receive additional grants from the Attorney General from the *Drug Abuse Resistance Education Fund*.

Detailed Fiscal Analysis

The existing Implied Consent Law provides that any person who operates a vehicle is deemed to have given consent to a blood, breath, or urine test if the person is arrested for operating a motor vehicle under the influence of alcohol and or drugs (state or municipal OMVI). The driver's license of a person who takes the test and fails it or who refuses to take the test is suspended immediately. The suspension lasts at least until the initial appearance, which must be held within five days of the arrest. (The suspension period could be as long as five years, depending on the circumstances.) This is the Administrative License Suspension (ALS).

If the person pleads guilty to or is convicted of OMVI, the person is subjected to a judicial suspension. However, if the suspension is imposed on a person who refused to take the test who then pleads guilty or is convicted after entering a no contest plea, the suspension under the ALS law must be terminated.[1] Thus, this person is subjected to just the judicial suspension and is liable for one $280 reinstatement fee at the end of the suspension period in order to reinstate the driver's license. The person who takes the test and fails it (alcohol or drug content exceeds the legal limits) does not have the ALS suspension terminated and, therefore, is liable for two $280 reinstatement fees. The bill provides for the termination of the suspension under the ALS law whether or not the person refused the test or took the test and failed it. Thus, regardless of the circumstances, the person is liable for one reinstatement fee. The bill also provides that if a person is arrested for OMVI and has multiple driver's, commercial driver's licenses, or permit or nonresident operating privilege suspensions imposed, the person is liable for one reinstatement fee.

Reinstatement Fee

The current $280[2] reinstatement fee is increased to $405. The distribution, the administering agency, and the purpose is described below.

1. From $75 to $112.50 to the *Driver's Treatment and Intervention Fund* (administered by the Department of Alcohol and Drug Addiction Services, DADAS); the fee is distributed to communities for treatment, prevention, education, outreach, and early intervention.
2. From $50 to $75 to the *Reparations Fund* (administered by the Court of Claims); the fee is used to compensate victims of crime.
3. From $25 to $37.50 to the *Indigent Drivers Alcohol Treatment Fund* (administered by DADAS); the fee is distributed to local courts through county and municipal indigent drivers treatment funds to pay the costs of alcohol and drug addiction treatment programs ordered by the court for indigent persons. A court may declare a surplus in this fund and spend the additional revenue on other substance abuse programs.
4. From $50 to $75 to the *Ohio Rehabilitation Services Commission* (RSC) which uses the money to match federal funds, when appropriate, to rehabilitate people with disabilities in order to become employed and independent. If no federal funds are available, the RSC may use the revenues for any other purpose or program.

[1] In the 1996 Ohio Supreme Court case *State v. Gustafson*, it was ruled that all suspensions under the ALS law must terminate upon sentencing regardless of the circumstances.

[2] Am. Sub. H.B. 210 of the 122nd General Assembly (the transportation budget act) added a $30 fee to the $250 fee for a total of $280. The $30 is to be retained by the Bureau of Motor Vehicles to help pay the Driver Division's operational costs. This increase is effective October 1, 1997.

5. From $50 to $75 to the *Drug Abuse Resistance Education Programs Fund* (administered by the Attorney General); moneys are used to award grants to law enforcement agencies for the purpose of establishing and implementing drug abuse resistance education programs in public schools.
6. The Bureau of Motor Vehicles also retains $30 to pay for operational costs. The bill does not change the amount of this fine. This fee, instated on October 1, 1997, is not reflected below because its inception occurred after FY 1996.

According to records maintained by the Bureau of Motor Vehicles, in FY 1996, the $250 reinstatement fee was paid in 24,635 cases, and the $500 fee was paid in 15,936 cases, thereby generating over $14.1 million from 40,571 paid cases. Under the bill's provisions, the fee is only paid once but is increased by 50 percent. Should the bill's provision have been in effect during FY 1996, based on paid cases, the total revenue generated would have been $15.2 million. This, of course, is more than a $1 million increase over that generated under current law. The following table shows how this increase would have been distributed.

Fund	Fund Name	No. FY 96 Cases	Total Fee	Portion of Fee to Fund			Revenue Gain/Loss
				Current Fee	*Fee Under Bill*	*Difference*	
474	Drivers Treatment & Intervention	24,635	$ 250	$ 75	$ 113	$ 37.5	$ 923,813
		15,936	$ 500	$ 150	$ 113	$ (37.5)	$ (597,600)
							$ 326,213
402	Reparations	24,635	$ 250	$ 50	$ 75	$ 25.0	$ 615,875
		15,936	$ 500	$ 100	$ 75	$ (25.0)	$ (398,400)
							$ 217,475
049	Indigent Drivers Alcohol Treatment	24,635	$ 250	$ 25	$ 38	$ 12.5	$ 307,938
		15,936	$ 500	$ 50	$ 38	$ (12.5)	$ (199,200)
							$ 108,738
4L1	Services for Rehabilitation	24,635	$ 250	$ 50	$ 75	$ 25.0	$ 615,875
		15,936	$ 500	$ 100	$ 75	$ (25.0)	$ (398,400)
							$ 217,475
4L6	Drug Abuse Resistance Education Program	24,635	$ 250	$ 50	$ 75	$ 25.0	$ 615,875
		15,936	$ 500	$ 100	$ 75	$ (25.0)	$ (398,400)
							$ 217,475

Of course, the amount generated in the future depends on the number of OMVI convictions and the number of paid cases. Additionally, it is unknown if the change in the fee would affect the number of persons who pay the fee. For the period of time from September 1, 1993 (when the reinstatement fee went into effect) until February 28, 1997, fees were assessed in 239,982 cases. Fees were paid in only 107,996 cases (45 percent). (Please note that since people usually pay at the end of their suspension, not all of these cases are unpaid but rather they are pending until the suspension period is completed.)

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