



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 548 of the 132nd G.A.

**Status:** As Reported by Senate Transportation, Commerce & Workforce

**Sponsor:** Rep. McClain

**Local Impact Statement Procedure Required:** No

**Subject:** Hearing protection while operating a motorcycle, special regional hauling permit, and size and weight exemption for towing vehicles

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### State & Local Fiscal Highlights

- The bill's earphone/earplug exception likely means some reduction in the number of motorcyclists cited for and convicted of violating current law's earphone/earplug prohibition. This may result in a no more than minimal annual loss in fine, fee, and court cost revenue that otherwise might have been collected and distributed pursuant to state law between the state, counties, municipalities, and townships. There is unlikely to be any discernible effect on traffic law enforcement and adjudication costs.
- The bill revises the law governing: (1) regional heavy hauling permits and (2) tow truck vehicle size and weight limits. The former would result in some additional costs to the Ohio Department of Transportation and local governments, but these would be offset by permit fee revenue. The latter would result in a small decrease in fine revenue to local governments.

### Detailed Fiscal Analysis

#### Hearing protection while operating a motorcycle

The bill permits a person to wear earphones or earplugs for hearing protection while operating a motorcycle. Under current law, wearing earphones or earplugs while operating a motor vehicle, including a motorcycle, is prohibited, except in specified circumstances. A violation is a minor misdemeanor that can elevate to either a fourth or third degree misdemeanor depending on the violator's prior record of traffic offenses.

In the case of the commission of a minor misdemeanor, a law enforcement officer generally does not arrest a person, but instead issues a citation. In lieu of making a court appearance, that person can sign a guilty plea and a waiver of trial provision that is on the citation and pay the total amount of the fine, fees, and costs at the clerk of the court or mail the citation and payment to the clerk of the court.

## Enforcement and adjudication

The bill's earphone/earplug exception likely means some reduction in the number of motorcyclists cited for and convicted of violating current law's earphone/earplug prohibition. For calendar year 2016, the Bureau of Motor Vehicles reported a total of 189 convictions for wearing earphones/earplugs while operating a motor vehicle. The number of those convictions involving a person wearing earphones/earplugs for hearing protection while operating a motorcycle is not reported, but likely accounted for a relatively small subset. As such situations would not constitute a violation subsequent to the bill's enactment, there may be a no more than minimal annual loss in fine, fee, and court cost revenue that otherwise might have been collected and distributed pursuant to state law between the state, counties, municipalities, and townships. The bill is unlikely to result in any discernible effect on traffic law enforcement and adjudication costs.

## Violation revenues

Under current law, a motorcycle operator found to have been wearing earphones/earplugs is generally guilty of a minor misdemeanor moving violation of the state's traffic law and required to pay a fine and a mix of state and local court costs and fees. The fine, court costs for a moving violation, and fees generally are summarized in Table 1 below.

<b>Financial Penalty Component</b>	<b>Amount Paid by Violator</b>	<b>Recipient of Amount</b>
Fine	Up to \$150, minor misdemeanor fine that varies by local jurisdiction	<ul style="list-style-type: none"> <li>Retained by county if violation of state law</li> <li>Retained by municipality or township if violation of local ordinance</li> <li>Forwarded for deposit into state Security, Investigations, and Policing Fund (Fund 8400) if violator cited by the Ohio State Highway Patrol</li> </ul>
Local court costs and fees	Varies by local jurisdiction	Generally retained by the county or municipality with subject matter jurisdiction over traffic violations
State court costs	\$37.50	Deposited in state treasury as follows: <ul style="list-style-type: none"> <li>\$25 to the Indigent Defense Support Fund (Fund 5DY0)</li> <li>\$9 to the Victims of Crime/Reparations Fund (Fund 4020)</li> <li>\$3.40 to the Drug Law Enforcement Fund (Fund 5ET0)</li> <li>\$0.10 to the Justice Program Services Fund (Fund 4P60)</li> </ul>

## Misdemeanor penalty table

Table 2 below summarizes current law's jail terms and fines generally for minor, fourth, and third degree misdemeanor offense classifications.

<b>Classification</b>	<b>Fine</b>	<b>Possible Term of Incarceration</b>
Minor Misdemeanor	Up to \$150	None
Misdemeanor 4th degree	Up to \$250	Jail, not more than 30 days
Misdemeanor 3rd degree	Up to \$500	Jail, not more than 60 days

## **Special regional heavy hauling permit**

The bill removes a requirement from permanent law that special regional heavy hauling permits must be for trips within 150 miles of the vehicle's point of origin. The Ohio Department of Transportation (ODOT) and local governments each issue these permits for heavy loads under current law, depending on the type of road and the jurisdictional boundaries in which the heavy vehicle will be traveling. Current law requires fees for issuance of this permit to be set by ODOT and local governments in line with the cost of expected damage to the road as a result of the heavy vehicle, as well as to cover administrative expenses. ODOT's fee structure is set in administrative code.

The fiscal effect of this provision is unclear at this time, as heavy hauling vehicle operators would likely substitute some permits obtained currently for the new regional hauling permits allowed under the bill's revised terms. Nonetheless, if there were an increase in costs to ODOT and local governments as a result of additional permits being issued, these costs would be offset by a rise in permit fee revenue. The permit fees collected by ODOT are deposited into the Highway Operating Fund (Fund 7002).

## **Size and weight exemption for towing vehicles**

Current law exempts vehicles from vehicle size and weight limitations on public roads if the vehicle is engaged in the initial towing or removal of a wrecked or disabled vehicle from the site of an emergency. H.B. 26 of the 132nd General Assembly, the transportation budget bill of the current FY 2018-FY 2019 biennium, enacted a two-year period of uncodified law so that vehicles are also exempted if they are: (1) en route to an emergency that requires a vehicle to be towed, or (2) returning from the emergency in which a tow was needed. This bill codifies these two additional exemptions. Consequently, this change could result in a reduction in fine revenue collected by state, county, and municipal entities. Presumably, the reductions would be minimal, since the vehicle size and weight limit laws were not likely enforced for every applicable emergency across the state.