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H.B. 129*
133rd General Assembly

Bill Analysis

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Version: As Reported by Senate Transportation, Commerce and Workforce

Primary Sponsor: Rep. McClain

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SUMMARY

- Permits a person to wear earphones or earplugs for hearing protection while operating a motorcycle.

DETAILED ANALYSIS

Hearing protection while operating a motorcycle

The bill permits a person to wear earphones or earplugs for hearing protection while the person is operating a motorcycle. Under current law, a person is prohibited from wearing earphones over, or earplugs in, both ears while operating any motor vehicle, including a motorcycle, except in specified circumstances.

With regard to the current general prohibition, the law is unclear about both of the following:

- Whether “earphones” includes devices that provide hearing protection, and
- Whether “earplugs” includes devices that provide entertainment.

The bill clarifies that both earphones and earplugs include devices that provide the user either entertainment (radio programs, music, etc.) or hearing protection. As such, under the bill, a person operating a motor vehicle is prohibited from wearing earphones or earplugs, in both ears, for either hearing protection or for entertainment purposes. However, a person operating a motorcycle has the limited, permitted exception of wearing earphones or earplugs for hearing protection.

* This analysis was prepared before the report of the Senate Transportation, Commerce and Workforce Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

Additionally, the bill updates the meaning of earphones and earplugs to reflect new wireless technologies and live, rather than prerecorded, entertainment.¹

Current exceptions

Under current law, unchanged by the bill, the prohibition against using earphones and earplugs while operating a motor vehicle does not apply to any of the following:

1. Any person wearing a hearing aid;
2. Law enforcement personnel while on duty;
3. Fire department personnel and emergency medical service personnel while on duty;
4. Any person engaged in the operation of equipment for use in the maintenance or repair of any highway; and
5. Any person engaged in the operation of refuse collection equipment.²

Penalties

Current law, unchanged by the bill, specifies that wearing earphones or earplugs while operating a motor vehicle, unless a person falls under one of the exceptions, is a minor misdemeanor. If within one year of the offense, the offender previously has been convicted of or pleaded guilty to one additional predicate motor vehicle or traffic offense, the offender is guilty of a fourth degree misdemeanor. If within one year of the offense, the offender previously has been convicted of or pleaded guilty to two or more predicate motor vehicle offenses, the offender is guilty of a third degree misdemeanor. In any instance, the offense is considered a strict liability offense.³

HISTORY

Action	Date
Introduced	03-12-19
Reported, H. Transportation and Public Safety	05-08-19
Passed House (95-0)	06-27-19
Reported, S. Transportation, Commerce & Workforce	---

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¹ R.C. 4511.84.

² R.C. 4511.84(C).

³ R.C. 4511.84(D).