



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 86 of the 131st G.A.

Date: June 10, 2015

Status: As Introduced

Sponsor: Rep. Grossman

Local Impact Statement Procedure Required: Yes

Contents: Distracted driving

State Fiscal Highlights

- The bill creates the Driver Education Fund, consisting of all fines collected for distracted driving offenses, and requires the Director of Public Safety to use all of the money to pay for driver safety activities and programs. The amount of money that will be collected and disbursed annually is uncertain.
- Certain offenders may be sentenced to longer prison stays, the cost of which to the Department of Rehabilitation and Correction is uncertain.

Local Fiscal Highlights

- As a result of the bill, local law enforcement agencies may incur additional one-time costs to reformat, order, or print new traffic tickets reflecting the new distracted driving citation.
- Counties and municipalities may experience an increase in the overall cost and amount of time it takes to dispose of certain traffic offense cases, the magnitude of which is uncertain.
- Certain offenders may be sentenced to jail, or serve longer stays in jail, the cost of which is uncertain.
- Clerks of courts may incur some additional one-time expenses to update their electronic systems to account for the creation of the bill's new fund.

Detailed Fiscal Analysis

The bill: (1) creates the unclassified misdemeanor offense of "distracted driving," (2) limits its application and prosecution to persons who also commit a moving violation or a vehicular homicide offense at the same time as the distracted driving offense, and (3) creates the Driver Education Fund in the state treasury, consisting of all fines collected for distracted driving offenses.

Estimating the ticketing activity and resulting fines that could be generated by enforcement of the bill's distracted driving prohibition is problematic. While research indicates that distracted driving is quite common and frequently linked to other traffic violations, it is unclear how frequently law enforcement will use the bill's distracted driving offense. For example, the bill does not specify whether law enforcement will have to actually observe the violation or if an officer may add it to the list of charges on the ticket, citation, or summons if such a violation is suspected. If law enforcement did not observe the violation, and the charge is contested, a prosecutor would have to prove that the driver was in fact distracted at the time of committing the offense. Also, the additional charge, fine, jail or prison sentence, and possible difficulty of proving a driver was distracted might make it more likely that the driver will contest the charge(s).

Enforcement and adjudication

Law enforcement

As a result of the bill, local law enforcement may incur additional one-time costs to reformat, order, or print new traffic tickets reflecting the new distracted driving citation. The creation of the distracted driving offense is not expected to result in significant additional enforcement costs, as law enforcement agencies would presumably incorporate the policing of this traffic offense into their daily patrol operations.

Local criminal justice systems

While the bill will not increase the number of cases for local courts to adjudicate, it will likely increase the overall cost and amount of time it takes to dispose of certain cases. This is primarily due to the bill's requirement that a person who receives a ticket, citation, or summons for a moving violation and for distracted driving while committing a moving violation, appear in the appropriate court to answer the charge. Current Supreme Court Rule permits a person who receives a citation for certain traffic violations to pay the amount of fines, fees, and court costs to the office of the clerk of the court in person or by mail thereby avoiding having to appear in court. As a significant portion of traffic violation citations are settled outside of court, the bill, depending on the number of distracted driving citations issued, may require courts to hold additional hearings.

Another factor that would impact the overall cost and amount of time it takes to dispose of a case is whether a citation is contested. In those cases, the prosecution would have to prove not only that the offense was committed, but that the driver was distracted at the time. As previously mentioned, the bill does not specify whether a law enforcement officer must observe the violation in order to issue a citation. If the violation was not witnessed, proving that the driver was distracted may be difficult and require additional time and resources. The number of citations that will be issued for distracted driving as a result of the bill is uncertain, as is the number of those citations that will be contested. Given the mandatory additional fine and jail or prison term, as well as the possible difficulty to prove, it is possible that the bill may increase the likelihood that a citation is contested.

Penalties

The bill requires that a person who pleads guilty to, or is convicted of, the offense of distracted driving in addition to a moving violation be fined \$100 for a first offense and \$300 for a second or subsequent offense, in addition to any penalties the court imposes for the underlying moving violation.

For a violation of R.C. 2903.06, the bill requires the court: (1) impose a fine that is twice the maximum amount permitted for a violation of R.C. 2903.06(A)(3), and (2) a jail or prison term that is twice the maximum term permitted for a violation of R.C. 2903.06(A)(3).

Under current law, R.C. 2903.06 includes the offenses of aggravated vehicular homicide (a felony of the first, second, or third degree with a mandatory prison term), vehicular homicide (a first degree misdemeanor or a fourth degree felony), and vehicular manslaughter (a first or second degree misdemeanor). The bill is unclear as to which fine and which jail or prison term for a violation of R.C. 2903.06 would constitute the basis for the distracted driving penalties noted in the immediately preceding paragraph.

Assuming the underlying offense was misdemeanor vehicular homicide, it appears possible that the court would be required to impose an additional stay in jail of 12 months. At the average daily rate of \$65, that additional one year would generate local costs of approximately \$24,000. Presumably, the bill will also result in certain offenders receiving longer prison sentences, the cost to the Department of Rehabilitation and Correction of which is uncertain.

Driver Education Fund

The bill creates the Driver Education Fund and requires that all fines collected for distracted driving offenses be deposited into the fund. The Director of Public Safety is required to use all money in the fund to pay for driver safety activities and programs. The magnitude of any fine revenue that may be generated is uncertain and will depend on the number of distracted driving citations issued, the type of underlying offense, and the number of prior convictions. As a result of this provision, clerks of courts may incur

some additional one-time expenses to update their electronic systems to account for the new fund.

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