



# OHIO LEGISLATIVE SERVICE COMMISSION

Joseph Rogers

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 388 of the 131st G.A. **Date:** December 6, 2016

**Status:** As Enacted **Sponsor:** Rep. Scherer

**Local Impact Statement Procedure Required:** Yes

**Contents:** Ignition interlock devices for certain OVI offenders

### State Fiscal Highlights

#### STATE FUND

#### FY 2017 – FUTURE YEARS

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#### State Highway Safety Fund (Fund 7036)

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Revenues	Potential annual increase of up to between \$50,000 and \$100,000
Expenditures	Potential annual increase up to available revenue

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Note: The state fiscal year is July 1 through June 30. For example, FY 2017 is July 1, 2016 – June 30, 2017.

- **State Highway Safety Fund.** When granting unlimited driving privileges with the installation of an ignition interlock device (IID), courts must impose an additional court cost of \$2.50 on the offender, which is credited to the State Highway Safety Fund (Fund 7036). This money is to be used by the Department of Public Safety to pay the costs associated with operating and maintaining Ohio's existing habitual operating vehicle impaired/operating motor vehicle while impaired (OVI/OMWI) offender registry. Additional revenue could run up to between \$50,000 and \$100,000 annually.
- **Department of Public Safety (DPS).** Additional one-time expenditures related to the creation of certificates of inspection and adoption of rules governing installation inspections would likely be no more than minimal.
- **DPS drunk driving study.** The one-time cost for DPS to produce the required study on drunk driving should be no more than minimal and readily absorbed into the daily cost of doing business.
- **Extending lookback period.** Extending the lookback period for OVI-related offenses from six to ten years may increase revenues collected and expenditures incurred by the state related to the adjudication and sanctioning of offenders charged at higher level offenses. The sheer mix of possibilities makes it extremely difficult to accurately estimate potential state revenue gains and expenditure increases.

# Local Fiscal Highlights

## LOCAL GOVERNMENT

FY 2017 – FUTURE YEARS

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### County and Municipal Indigent Drivers Interlock and Alcohol Monitoring Funds

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Revenues	- 0 -
Expenditures	Potential annual increase, uncertain if available cash balance will support demand

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### County and Municipal Indigent Drivers Alcohol Treatment Funds

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Revenues	- 0 -
Expenditures	Potential annual increase, uncertain if available cash balance will support demand

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### County and Municipal Court Special Project Funds

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Revenues	Potential annual gain of up to between \$50,000 and \$100,000 statewide
Expenditures	Potential annual increase up to available revenue

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Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **County and municipal indigent drivers interlock and alcohol monitoring funds.** The bill will result in an increase in expenditures from local indigent drivers interlock and alcohol monitoring funds, as some number of offenders required to install IIDs will be judged by the court to be indigent and unable to pay the cost. Whether the available cash balance in any one of these local funds will be sufficient to cover the likely demand increase is uncertain.
- **County and municipal indigent drivers alcohol treatment funds.** The bill will likely result in an increase in the expenditures from local indigent drivers alcohol treatment funds, as some number of offenders who have been granted unlimited driving privileges will be caught attempting to tamper with or circumvent the IID, required to submit to remote continuous monitoring, and determined to be indigent and unable to pay for the monitoring costs. Whether the available cash balance in any one of these local funds will be sufficient to cover the likely demand increase to pay for the costs of indigent offenders is uncertain.
- **County and municipal court special projects funds.** The bill authorizes the court to impose on a first-time OVI offender an additional court cost of \$2.50, which is deposited in the court's special projects fund. Revenue collected in these special projects funds could be used to help defray additional expenses related to IIDs and continuous alcohol monitoring for indigent OVI offenders that might be incurred by the court. Additional revenue could run up to between \$50,000 and \$100,000 annually statewide.
- **Extending lookback period.** Extending the lookback period for OVI-related offenses from six to ten years may increase revenues collected and expenditures incurred by local criminal justice systems related to the adjudication and sanctioning of offenders charged at higher level offenses. The sheer mix of possibilities makes it extremely difficult to accurately estimate potential local revenue gains and expenditure increases.

- **Jail expenditures.** The bill requires courts granting unlimited driving privileges to first-time OVI offenders to suspend any jail term imposed for the OVI offense. This may reduce jail expenditures by an uncertain amount in any jurisdiction.
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## **Detailed Fiscal Analysis**

### **Ignition interlock device**

Under current law, a first-time OVI (operating a vehicle while intoxicated) offender faces a driver's license suspension of between six months to three years in duration. After the initial 15 days of that suspension, that offender may petition the court to be granted limited driving privileges, and the court, upon granting such privileges, has the option of requiring the installation of an ignition interlock device (IID) in the vehicle to be driven by the offender. The bill establishes an alternative to limited driving privileges for first-time offenders during the period of the license suspension by allowing the court to grant unlimited driving privileges with the installation of an IID in the offender's vehicle.

The bill will not increase or decrease the number of offenders charged with or convicted of a first-time OVI offense, or other alcohol-related offenses. It only has an impact on the sanctions imposed on first-time offenders convicted of a specified offense. Data obtained from the Department of Public Safety's Bureau of Motor Vehicles indicates that between calendar years (CY) 2008 and 2012 there were, on average, about 25,000 first-time OVI convictions statewide each year.

Arguably, as a direct result of the bill, some percentage of these specified alcohol-related offenders will, because of work and/or other commitments/needs, petition a court for the reinstatement of unlimited driving privileges. As the bill requires the installation of IIDs as a condition of being granted driving privileges and the courts are required to grant such privileges upon petition, there will be some overall increase in the number of IIDs installed statewide.

### **State fiscal effects**

#### **Court cost revenues**

The bill requires a court, when granting a petition for restoration of unlimited driving privileges, and ordering the installation of an IID, to impose an additional court cost of \$2.50 on the offender. The court may not waive this additional court cost unless it determines the offender is indigent. The additional court cost will be forwarded to the state treasury for deposit to the credit of the State Highway Safety Fund (Fund 7036), to be used by the Department of Public Safety to pay the costs associated with operating and maintaining Ohio's existing habitual operating vehicle impaired/operating motor vehicle while impaired (OVI/OMWI) offender registry. As a result, Fund 7036 potentially gains tens of thousands of dollars annually. If, for example, 20,000 of those first-time offenders were granted driving privileges during their license suspensions,

and half of these paid the additional court cost, the revenue gain to Fund 7036 would be \$25,000 (10,000 offenders x \$2.50) each year. If all convicted OVI offenders, as specified in the bill, paid the additional court cost, the additional revenue could run up to between \$50,000 and \$100,000 annually depending on the number of offenders in any given year.

### **Local fiscal effects**

#### **Ignition interlock device expenses**

The bill is likely to result in an increase in the number of OVI and other alcohol-related offenders being granted driving privileges by the courts. These offenders will be required to have an IID installed on the appropriate vehicle(s) as a condition of the restoration of their driving privileges. Under current law, such an offender is required to pay the cost of installation, monitoring, and maintenance of the IID. Information obtained from manufacturers, as well as other states requiring the use of IIDs, indicates that the related costs are as follows: a one-time \$70 to \$150 for the installation, and \$60 to \$90 monthly for monitoring, maintenance, and calibration.

When the court determines, however, that an OVI offender is indigent, then these IID-related costs would likely be paid from the appropriate county or municipal indigent drivers interlock and alcohol monitoring fund. These local funds consist of a designated portion (\$50) of driver's license reinstatement fees that are collected and forwarded to the state treasury and deposited to the credit of the Indigent Drivers Interlock and Alcohol Monitoring Fund (Fund 5FF0), which is administered by the Department of Public Safety.

Even though the bill requires manufacturers to charge indigent offenders a reduced fee for the installation and monitoring of an IID, there will still likely be an increase in expenditures from these local indigent drivers interlock and alcohol monitoring funds, as some number of offenders required to install IIDs will be judged by the court to be indigent and will not pay these costs. Whether the available cash balance in any one of these local funds will be sufficient to cover the likely demand increase is uncertain.

#### **Continuous alcohol monitoring expenses**

The bill prohibits any offender who is granted the authority to drive with an IID installed in their vehicle from driving any vehicle not equipped with an IID and from circumventing or tampering with the device. If an offender violates one of these prohibitions, the court may require the person to wear a monitor that provides remote continuous alcohol monitoring. On a second violation, the court is required to impose remote continuous alcohol monitoring for a minimum of 40 days. On a third or subsequent violation, the court must require the first-time OVI offender to wear a monitor for a minimum of 60 days.

The offender is responsible for paying the cost of remote continuous alcohol monitoring, which involves a one-time equipment cost of somewhere between \$50 and \$100, plus \$10 to \$12 per day for the cost of remote monitoring. When the court determines an offender is indigent, then the cost of the monitoring would likely be paid from the appropriate county or municipal indigent drivers alcohol treatment fund. These funds receive revenue from a designated portion of OVI fines and driver's license reinstatement fees which are collected and forwarded to the state treasury and deposited to the credit of the Indigent Drivers Alcohol Treatment Fund (Fund 7490). These state moneys are then redistributed by the Department of Mental Health and Addiction Services to local indigent drivers alcohol treatment funds which are used by the court to pay the cost of alcohol treatment, as well as remote continuous alcohol monitoring, for indigent offenders.

The bill will likely result in an increase in the expenditures from these local indigent drivers alcohol treatment funds, as some number of offenders who have been granted restored driving privileges will be caught attempting to tamper with or circumvent the IID. Whether the available cash balance in any one of these local funds will be sufficient to cover the likely demand increase is uncertain.

#### **Court cost revenues**

The bill authorizes, but does not require, the court to impose a second additional court cost of \$2.50 on specified OVI offenders, which is deposited in the court's special projects fund.<sup>1</sup> Presumably, any revenues collected in this special projects fund could be used to help defray additional expenses, such as those related to IIDs and continuous alcohol monitoring for indigent OVI offenders that might be incurred by the court. Additional statewide revenue could run up to between \$50,000 and \$100,000 annually depending on the number of first-time OVI convictions.

#### **Jail expenditures**

The bill requires that when a court grants unlimited driving privileges, with a required ignition interlock device, to first-time OVI offenders, the court must suspend any jail term imposed for the OVI offense. The court may later order the first-time OVI offender to serve the jail term if, during the period of license suspension, the offender violates any term or condition of the order that granted the unlimited driving privileges. This may reduce jail expenditures by an uncertain amount in any jurisdiction.

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<sup>1</sup> Under current law, unchanged by the bill, a special projects fund can be used to acquire and pay for special projects of the court, including: facility acquisition and rehabilitation, equipment acquisition, staff hiring and training, community service programs, mediation or dispute resolution services, employment of magistrates, and training and education of judges, acting judges, and magistrates.

## **Lookback period for OVI and OVI-related offenses**

Under current law, OVI and many OVI-related offenses have a six-year lookback period. If an OVI offender has a previous OVI or OVI-related conviction within this lookback period, that offender would face more serious penalties for a conviction on a current OVI charge. The bill extends this lookback period from six to ten years with respect to OVI offenses, OVI-related aggravated vehicular homicide and assault, as well as other OVI-related prohibitions and applicable penalties.

A number of offenses and penalties in the Revised Code depend on the number of prior OVI convictions within the specified lookback period. Predicting the statewide impact of extending the lookback period from six to ten years is an exceedingly complex undertaking. By qualifying additional OVI offenders for more serious penalties, this provision of the bill will create additional cost by elevating certain cases from misdemeanors to felonies, and possibly increasing jail or prison sentences and time served. Extending the lookback may also increase state and local court cost, fee, and fine revenues by allowing certain offenders to be charged at higher levels. The sheer mix of possibilities makes it extremely difficult to accurately estimate potential annual increases in both state and local revenues and expenditures related to the charging, adjudication, and sanctioning of OVI and OVI-related offenders.

## **Department of Public Safety**

### **Certifications and inspections**

The bill requires the Director of Public Safety: (1) to establish a certificate of installation that a manufacturer of ignition interlock devices signs and provides to a person upon the completion of the installation of such a device on the person's motor vehicle, and (2) to adopt rules that govern procedures for confirming and inspecting the installation of ignition interlock devices. The likely one-time cost to comply with these requirements should be no more than minimal and readily absorbed into the Department's daily cost of doing business.

### **OVI study**

The bill requires the Director of Public Safety: (1) to study the effect of the bill on the number of IIDs installed in Ohio, the number of drunken driving accidents and deaths, and the recidivism rate for OVI offenses, and (2) to issue a report of its findings to the Governor and certain legislative leaders not later than 48 months after the bill's effective date. The likely one-time cost to compile the data and issue the report should be no more than minimal and readily absorbed into the Department's daily cost of doing business.