



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

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### Sub. H.B. 42

132nd General Assembly

(As Reported by H. Economic Development, Commerce, and Labor)

**Reps.** Sprague and DeVitis, Seitz

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### BILL SUMMARY

- Prohibits, beginning July 1, 2018, the installation of unsafe used tires on specified motor vehicles.
  - Makes a violation of the above prohibition a violation of the Ohio Consumer Sales Practices Act.
  - Excludes from the prohibition tires mounted on wheels or rims that are temporarily removed from a vehicle and reinstalled on the same vehicle.
  - Imposes a fine of no more than \$1,000 for a violation of the prohibition.
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### CONTENT AND OPERATION

#### Unsafe used tire installation

The bill prohibits, beginning July 1, 2018, a supplier from installing an "unsafe used tire" (see "**Definitions**," below) on a passenger car, multipurpose passenger vehicle, or truck that will operate on a public highway. This prohibition does not apply to tires mounted on wheels or rims that are temporarily removed from a vehicle and reinstalled on the same vehicle. A supplier who installs an unsafe used tire on one of these vehicles has committed an unconscionable consumer sales act or practice under the Ohio Consumer Sales Practices Act (CSPA).<sup>1</sup>

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<sup>1</sup> R.C. 1345.022(B) and (C) and Section 3; R.C. 1345.03, not in the bill.

## Enforcement

### Penalty

Any person who negligently violates the bill's prohibition must be fined not more than \$1,000.<sup>2</sup>

### Attorney General remedies

If the Attorney General has reasonable cause to believe that a supplier has engaged or is engaging in an act or practice that violates the CSPA, the Attorney General may do any of the following:

- Sue for a declaratory judgment that the act or practice is an unconscionable consumer sales act or practice under the CSPA.
- Sue for an injunction to restrain the act or practice. In this type of suit, the court may also impose a civil penalty of not more than \$5,000 for each day of violation of the injunction, if the supplier received notice of the lawsuit.
- Commence a class action on behalf of consumers who have engaged in consumer transactions in Ohio for damage caused by an act or practice determined by an Ohio court to violate the CSPA and committed after the decision containing the determination has been made available for public inspection.<sup>3</sup>

### Individual remedies

The injured consumer also may sue:

- The consumer may, in an individual action, rescind the transaction or recover the consumer's actual economic damages plus up to \$5,000 in noneconomic damages.
- If the violation was an act or practice determined by an Ohio court to be an unconscionable consumer sales act or practice and committed after the decision containing the determination has been made available for public inspection, the consumer may rescind the transaction or recover the greater of three times the consumer's economic damages or \$200, plus up

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<sup>2</sup> R.C. 1345.99(D).

<sup>3</sup> R.C. 1345.07, not in the bill.



to \$5,000 in noneconomic damages. Alternatively, the consumer can recover damages or obtain other appropriate relief in a class action.

- The consumer may seek a declaratory judgment, an injunction, or other appropriate relief.<sup>4</sup>

## Definitions

Under the bill, "**unsafe used tire**" means a used tire, to which any of the following criteria applies:

- The tire is worn to  $\frac{2}{32}$  of an inch tread depth or less on any area of the tread.
- The tire has any damage exposing the reinforcing plies of the tire, including cuts, cracks, punctures, scrapes, or wear.
- The tire has any repair in the tread shoulder or belt edge area.
- The tire has a puncture that has not been both sealed or patched on the inside and repaired with a cured rubber stem through the outside.
- The tire has repair to the sidewall or bead area of a tire.
- The tire has a puncture repair of damage larger than  $\frac{1}{4}$  of an inch.
- The tire shows evidence of prior use of a temporary tire sealant without evidence of a subsequent proper repair.
- The tire has a defaced or removed U.S. Department of Transportation tire identification number.
- The tire has any inner liner damage or bead damage.
- There is indication of internal separation, such as bulges or local areas of irregular tread wear indicating possible tread or belt separation.<sup>5</sup>

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<sup>4</sup> R.C. 1345.09, not in the bill.

<sup>5</sup> R.C. 1345.022(A).



The bill uses the following continuing law definitions:

**"Multipurpose passenger vehicle"** means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.

**"Passenger car"** means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.

**"Supplier"** means, for purposes of the CSPA, a seller, lessor, assignor, franchisor, or other person engaged in the business of effecting or soliciting consumer transactions.

**"Truck"** means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of 10,000 pounds or less.<sup>6</sup>

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## HISTORY

ACTION	DATE
Introduced	02-07-17
Reported, H. Economic Development, Commerce & Labor	05-10-17

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<sup>6</sup> R.C. 1345.022(A) and R.C. 1345.01(C) and 4513.021(A), not in the bill.

