



# 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 House Transportation and Public Safety

**Sponsor:** Rep. McClain

**Local Impact Statement Procedure Required:** No

**Subject:** Use of earplugs while operating a motorcycle

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### State & Local Fiscal Highlights

- The state may lose at most a minimal amount of court cost revenue annually that would have been apportioned between certain state funds.<sup>1</sup>
- There may be a no more than minimal annual loss in fine, fee, and court cost revenue that is distributed pursuant to state law between counties, municipalities, and townships.
- The bill is unlikely to result in any discernible ongoing effect on traffic law enforcement and adjudication costs.

### Detailed Fiscal Analysis

The bill permits a person to wear 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 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

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<sup>1</sup> The state funds include: the Indigent Defense Support Fund (Fund 5DY0), the Victims of Crime/Reparations Fund (Fund 4020), the Drug Law Enforcement Fund (Fund 5ET0), and the Justice Program Services Fund (Fund 4P60).

number of those convictions involving a person wearing 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