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S.B. 55
133rd General Assembly

Bill Analysis

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Version: As Passed by the House

Primary Sponsor: Sen. Gavarone

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SUMMARY

- Enhances the penalties for most drug trafficking offenses when committed on the premises of a substance addiction services provider's facility, or within 1,000 feet of the premises of such a provider's facility, if the offender recklessly disregards whether the offense is being committed within that vicinity.
- Sets the new penalty enhancements at the same level as existing penalty enhancements for the same drug trafficking offenses when committed in the vicinity of a school or juvenile.
- Reduces the penalties for violating local board of health and Department of Health orders related to pandemic diseases.
- Designates certain provisions the "Relapse Reduction Act."

DETAILED ANALYSIS

Penalty enhancement for drug offenses committed near treatment centers

The bill generally enhances the penalties for trafficking in any Schedule I or II controlled substance, with the exception of marijuana or, in limited circumstances, a fentanyl-related compound combined with marijuana, when the offense is "committed in the vicinity of a substance addiction services provider." The bill does not apply the enhancement to trafficking in a Schedule III, IV, or V controlled substance or trafficking in marijuana. The bill's penalty enhancements apply to the following drug trafficking offenses:¹

¹ R.C. 2925.03(C)(1) and (4) to (9).

- Aggravated trafficking in drugs (the drug involved in this offense is a Schedule I or II controlled substance other than marihuana, cocaine, L.S.D., heroin, a fentanyl-related compound, hashish, or a controlled substance analog);
- Trafficking in cocaine;
- Trafficking in L.S.D.;
- Trafficking in heroin;
- Trafficking in hashish;
- Trafficking in a controlled substance analog;
- Trafficking in a fentanyl-related compound (unless the fentanyl-related compound is combined with marihuana and the offender does not know or have reason to know that the mixture contains a fentanyl-related compound, in which case the offense is treated as trafficking in marihuana).

The bill's penalty enhancements are equivalent to existing penalty enhancements for the same drug offenses when committed in the vicinity of a school or juvenile (but note that for some of the offenses, when a specified large amount of the drug is involved, the commission of the offense in the vicinity of a school, a juvenile, or a substance addiction services provider does not result in an enhanced penalty under current law or the bill). The specific penalties and enhancements vary according to the particular type of controlled substance and amount of the controlled substance involved.² For example, under current law, if the amount of the drug involved in the offense of aggravated trafficking in drugs is less than 20 grams (the bulk amount), the offense is generally a fourth degree felony, but becomes a third degree felony when committed in the vicinity of a school or juvenile. Under the bill, aggravated trafficking in that amount is also a third degree felony when committed in the vicinity of a substance addiction services provider.³

The bill specifies that its provisions are to be known as the "Relapse Reduction Act."⁴

For purposes of the bill, an offense is "committed in the vicinity of a substance addiction services provider" if:⁵ (1) the offender commits the offense on the premises of a substance addiction services provider's facility, including a facility licensed to provide methadone treatment under the law in effect until June 29, 2019, or an opioid treatment program licensed under the law that will take effect on that date, or within 1,000 feet of the premises of a substance addiction services provider's facility, and (2) the offender recklessly disregards whether the offense is being committed within the vicinity described in clause (1).

² R.C. 2925.03(C)(1) and (4) to (9).

³ R.C. 2925.03(C)(1)(a) and (b).

⁴ Section 4.

⁵ R.C. 2925.01(MM).

Under the bill, relevant to the meaning of “committed in the vicinity of a substance addiction services provider”:⁶

“Substance addiction services provider” means an agency, association, corporation or other legal entity, individual, or program that provides one or more of the following at a facility: (1) either alcohol addiction services, or drug addiction services, or both such services that are certified by the Director of Mental Health and Addiction Services under a specified provision of existing law, or (2) recovery supports that are related to either alcohol addiction services, or drug addiction services, or both such services and paid for with federal, state, or local funds administered by the Department of Mental Health and Addiction Services or a board of alcohol, drug addiction, and mental health services.

“Premises of a substance addiction services provider’s facility” means the parcel of real property on which any substance addiction service provider’s facility is situated.

“Alcohol and drug addiction services” means services, including intervention, for the treatment of alcoholics or persons who abuse drugs of abuse and for the prevention of alcoholism and drug addiction.

Penalty reductions for violations of health orders related to pandemic diseases

Ohio Department of Health orders

Current law prohibits violating any rule adopted or order issued by the Director of Health or the Department of Health to prevent a threat to the public caused by a pandemic, epidemic, or bioterrorism event.⁷ Under existing law, such a violation is a second degree misdemeanor,⁸ punishable by not more than a 90-day jail term or a fine not more than \$750.⁹

Under the bill, in the case of a rule or order that relates to a pandemic, a violation is subject to a warning on a first offense and on a subsequent offense, a fine in an amount not to exceed the maximum amount for a minor misdemeanor, or \$150.¹⁰

Board of health orders

Existing law authorizes a board of health of a city or general health district to make orders or regulations to prevent or restrict disease.¹¹ At present, violating such an order or regulation is punishable by a fine of not more than \$100, a jail term of not more than 90 days,

⁶ R.C. 2925.01(NN) to (PP) and, by reference R.C. 5119.01, not in the bill.

⁷ R.C. 3701.352, not in the bill.

⁸ R.C. 3701.99(C).

⁹ R.C. 2929.24 and 2929.28, neither in the bill.

¹⁰ R.C. 3701.99(C) and 2929.28, not in the bill.

¹¹ R.C. 3709.20 and 3709.21, neither in the bill.

or both; however, on a first offense, a jail term cannot be imposed.¹² Under the bill, in the case of an order or regulation related to a pandemic, a violation is subject to a warning on a first offense and on a subsequent offense, a fine in amount not to exceed \$100.¹³

Other board of health orders

Other provisions of current law authorize a board of health of a city or general health district to issue orders or regulations relating to infectious or communicable diseases.¹⁴ Violating such an order or regulation is a minor misdemeanor on a first offense, punishable by a fine of not more than \$150, and a fourth degree misdemeanor on a subsequent offense, punishable by a jail term of not more than 30 days and a fine in an amount not more than \$250.¹⁵ Under the bill, in the case of an order or regulation related to a pandemic, a violation is subject to a warning on a first offense and on a subsequent offense, a fine in amount not to exceed \$100.¹⁶

HISTORY

Action	Date
Introduced	02-19-19
Reported, S. Judiciary	04-03-19
Passed Senate (31-2)	05-15-19
Reported, H. Criminal Justice	11-05-19
Passed House (72-23)	05-06-20

S0055-PH-133/ar

¹² R.C. 3709.99(A).

¹³ R.C. 3709.99(C).

¹⁴ R.C. 3707.48; R.C. 3707.01 to 3707.50, none in the bill.

¹⁵ R.C. 3707.99(B); R.C. 2929.24 and 2929.28, neither in the bill.

¹⁶ R.C. 3707.99(C).