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# OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 217  
133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Schaffer

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### SUMMARY

- Creates a Sex Offender Registration and Notification (SORN) law fluorescent green license plate and, for vehicles registered outside of Ohio, a decal.
- Requires a Tier II or Tier III sex offender or child-victim offender to display either the license plate or the decal when operating a motor vehicle in Ohio, unless the person is operating a vehicle under one of the bill's exceptions.

### DETAILED ANALYSIS

#### SORN law license plate and decal

##### Court orders

The bill creates a Sex Offender Registration and Notification (SORN) law license plate and decal. The sentencing court with jurisdiction over any registered Tier II or III sex or child-victim offender must order the display of a SORN law license plate on any motor vehicle owned or operated by that offender.<sup>1</sup> The court must issue the order for any registered offender regardless of whether the underlying offense occurred prior to, on, or after the effective date of the bill (see **COMMENT**).<sup>2</sup> The registered offender must display SORN law license plates for the time period during which the offender must register as a sex or child-victim offender. If a registered offender has multiple offenses, the period of time the offender must display the license plate is consecutive, not concurrent.<sup>3</sup> The sentencing court must notify the Registrar of

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<sup>1</sup> R.C. 2950.18.

<sup>2</sup> R.C. 2950.18(B).

<sup>3</sup> R.C. 2950.18(C).

Motor Vehicles of any orders to display the SORN law license plate, so that the Registrar can ensure the proper issuance of the license plate.<sup>4</sup>

For a brief description of the sex offender tiers, please see the description from the Cuyahoga County sheriff's website: <https://sheriff.cuyahogacounty.us/en-US/sex-offender-tiers.aspx>.

## Exceptions

Generally, a registered offender who must display a SORN law license plate is prohibited from operating a motor vehicle in Ohio unless that vehicle displays the license plate.<sup>5</sup> However, the bill exempts the registered offender from this requirement under the following circumstances:

1. While operating a motor vehicle owned by the registered offender's employer if the vehicle is being used in the course and scope of the registered offender's employment;<sup>6</sup>
2. While operating a motor vehicle registered in another state, however, in such a circumstance, the registered offender must display the SORN law decal, instead of the license plate;
3. While operating a motor vehicle with a temporary license plate placard while waiting for the vehicle to be issued the permanent SORN law license plate.<sup>7</sup>

## Logistics

The SORN law license plate must be fluorescent green and display a special serial number that can be readily identified by law enforcement. If an offender must display a decal instead of a license plate, the decal must be displayed on the bottom left corner of the back window, or the left corner of the windshield if there is no back window. The Registrar may issue a SORN law license plate or decal for any motor vehicle owned or expected to be operated by a registered offender with the relevant order. If the vehicle is owned by a person who is not the registered offender, the owner of the vehicle must consent to the vehicle being operated by the registered offender and to the display of the license plate or decal. The Registrar must adopt rules that allow for the issuance of SORN law license plates and decals by at least one deputy registrar in each county.<sup>8</sup> The bill does not specify which license plate takes priority if a

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<sup>4</sup> R.C. 2950.18(D).

<sup>5</sup> R.C. 4503.237(A).

<sup>6</sup> The employer must be told of the order, the registered offender must have proof that the employer is aware of the order in his/her possession during work, and the exemption does not apply if the registered offender partly or entirely owns or controls the business. R.C. 4503.237(B)(1).

<sup>7</sup> R.C. 4503.237(B).

<sup>8</sup> R.C. 4503.237(B)(2) and (C).

registered offender must also display another type of restricted license plate (for example, a restricted license plate for an OVI offense).<sup>9</sup>

## Penalties

A registered offender who must display a SORN law license plate may not disguise or hide the color of the license plate.<sup>10</sup> Doing so, or operating a motor vehicle without displaying the license plate or decal (unless an exemption applies), is a minor misdemeanor and a strict liability offense.<sup>11</sup>

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## COMMENT

Under the bill, the SORN law license plate and decal requirement applies to persons who are classified as Tier II or III offenders *prior* to the effective date of the bill. A court could determine that this requirement is unconstitutionally retroactive as applied to a person who committed an offense that resulted in their classification as a Tier II or III offender prior to the effective date of this bill.

Pursuant to the Ohio Supreme Court's interpretation of Article II, Section 28 of the Ohio Constitution, a statute is unconstitutionally retroactive if: (1) it is expressly made retroactive by the General Assembly, and (2) it is substantive rather than remedial.<sup>12</sup> Accordingly, if a court determines that the bill's requirement as it pertains to a prior offender is substantive rather than remedial, then the requirement would be unconstitutionally retroactive as applied to the offender.<sup>13</sup>

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## HISTORY

Action	Date
Introduced	10-15-19

S0217-I-133/ks

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<sup>9</sup> See R.C. 4503.231, not in the bill.

<sup>10</sup> R.C. 4503.237(D).

<sup>11</sup> R.C. 4503.237(E) and (F).

<sup>12</sup> *Van Fossen v. Babcock & Wilcox Co.*, 36 Ohio St.3d 100 (1988).

<sup>13</sup> *State v. Williams*, 129 Ohio St.3d 344 (2011) (holding that the SORN law requirements that became effective in 2008 were substantive and therefore retroactive application was unconstitutional). Cf. *State v. Ferguson*, 120 Ohio St.3d 7 (2008) (holding that the SORN law requirements that became effective in 2003 were remedial and therefore retroactive application was not unconstitutional).