



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 203
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 203's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. Manning

Local Impact Statement Procedure Required: No

Maggie West, Senior Budget Analyst

Highlights

- The bill may result in fewer OVI¹ cases involving marijuana for local criminal justice systems to process, however, the cases that are pursued may be more cost and labor intensive if expert witnesses are utilized to establish impairment when they otherwise might not have been under current law and practice. The net annual fiscal effect on local criminal justice systems generally is likely to be minimal.
- There may be a minimal at most decrease in OVI-related revenue from court costs, fines, and fees that is apportioned between state funds and local governments each year.
- There may be a negligible administrative savings effect on the Bureau of Motor Vehicles (BMV) from a relatively small potential reduction in the number of driver's licenses suspended and reinstated each year.

Detailed Analysis

The bill: (1) removes for both vehicles and watercraft the per se limits for marijuana and marijuana metabolites for purposes of determining an automatic violation of the OVI laws and replaces with an evidentiary standard that may be used to infer an operator is under the influence of marijuana, (2) removes a related automatic driver's license suspension, and (3) specifies that the admissibility of evidence in an OVI prosecution is subject to the Rules of Evidence.

¹ Operating a vehicle while intoxicated.

Local criminal justice systems

The bill removes existing per se prohibited concentration limits for marijuana and marijuana metabolites and replaces them with an evidentiary standard that may be used to infer that the operator of a vehicle or watercraft is under the influence of marijuana. Under existing law, unchanged by the bill, a per se violation of the OVI law generally means that a person is automatically considered to be in violation of the law if the concentration of a substance in their urine, whole blood, blood serum, or plasma test exceeds a specified amount, with no additional evidence of impairment necessary.

This change may result in slightly fewer OVI convictions involving marijuana, as a violation would no longer be considered as automatic and charges may not be pursued or the court may render a finding of not guilty. However, those cases that prosecutors pursue may be more cost and labor intensive if the number of cases going to trial increase and expert witnesses are utilized to establish impairment when they otherwise might not have been under current law and practice. The net fiscal effect of fewer cases that take longer and cost more to adjudicate on the annual operating costs of local criminal justice systems generally will be minimal.

For calendar year 2020, the Bureau of Motor Vehicles reported 23,164 OVI convictions² statewide. The number involving solely marijuana is uncertain, but anecdotal evidence suggests that it is relatively small. It is not uncommon for people charged with OVI to have both drugs and alcohol in their system. Current practice indicates that when a person is initially charged for a violation of OVI laws, they are generally charged under a broader violation, which may be amended later to include the per se charge depending on results from subsequent laboratory testing and analysis. It is unclear what affect the bill would have on those cases where multiple substances, including marijuana, are present.

Law enforcement

Based on conversations with the Buckeye State Sheriffs' Association and the Ohio Association of Chiefs of Police, the bill is not likely to have a significant impact on law enforcement, as the bill will not change existing practices and procedures regarding OVI enforcement. Both associations indicated that the number of OVI cases processed involving solely marijuana is relatively low in the context of the total number of OVI cases each year.

Penalties

Under existing law, unchanged by the bill, the penalty for an OVI depends generally on the number of prior convictions, the lookback period (10 years, 20 years, 2nd felony lifetime), the under the influence tier (low-level test/high-level test), and number of chemical test refusals. OVI convictions carry a mandatory fine ranging from \$375 to \$10,500, based on the facts and circumstances present. State law apportions the fine for various costs: enforcement and education, incarceration, indigent defense, drug and alcohol treatment, and vehicle immobilizing or disabling devices. The operator of the vehicle is also subject to an automatic driver's license suspension for refusing or failing a chemical test, the length of which depends on guilt and the number of test refusals or failures.

² R.C. 4511.19(A).

For a first-time OVI offense in ten years, a person is subject to the following:

- In the case of a low-level test, a mandatory minimum penalty of three days in jail or participation in a driver intervention program, a one-year license suspension (limited driving privileges may be granted), and a fine of \$375.
- In the case of a high-level test or refusal, up to six months in jail, a fine of up to \$1,075, a driver's license suspension of up to three years, and the requirement to display restricted special license plates or install ignition interlock devices in their vehicles.

The extent to which local jails may be affected by the bill is uncertain but there may be a decrease in the number of offenders jailed if there are fewer arrests or convictions for OVI violations involving solely marijuana. The magnitude of any incarceration savings would depend upon the length of sentence that the individual would have otherwise received. Local courts and clerks of courts may also experience a minimal savings effect related to fewer license suspensions and petitions for limited driving privileges or unlimited driving privileges with an ignition interlock device.

Additionally, if the bill results in fewer OVI convictions, there would also be a decrease in fine, court costs, and fee revenue collected. The following table shows, for a first-time OVI offense, the amount of the fine, court costs, and fees, and the distribution of that money.

S.B. 203 Fines, Court Costs, and Fees for First-Time OVI		
Financial Penalty Component	Amount Paid by First-Time Violator	Recipient of Amount
Fine	\$375-\$1,075	<ul style="list-style-type: none"> ▪ \$25 to the enforcement and education fund of the law enforcement agency responsible for the offender's arrest ▪ \$25 to the county or municipal indigent drivers' alcohol treatment fund ▪ \$50 to the political subdivision housing the offender during incarceration ▪ \$50 to the special projects fund of the court in which the offender was convicted ▪ \$75 to the Indigent Defense Support Fund (Fund 5DY0) ▪ Remaining balance disbursed as otherwise provided by law: <ul style="list-style-type: none"> ▫ Retained by county if violation of state law ▫ Retained by municipality if violation of local ordinance ▫ Forwarded for deposit into the state Security, Investigations, and Policing Fund (Fund 8400) if

S.B. 203 Fines, Court Costs, and Fees for First-Time OVI		
Financial Penalty Component	Amount Paid by First-Time Violator	Recipient of Amount
		violator is cited by the Ohio State Highway Patrol
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	\$29	<ul style="list-style-type: none"> ▪ \$20 to the Indigent Defense Support Fund (Fund 5DY0) ▪ \$9 to the Victims of Crime/Reparations Fund (Fund 4020)

Bureau of Motor Vehicles

By removing per se prohibited concentration limits for OVI violations involving solely marijuana, the bill also removes the automatic administrative license suspension that would otherwise apply to those violations. As a result, there is likely to be some reduction in the number of (1) automatic administrative license suspensions, and (2) license suspensions that otherwise might have resulted in a court's finding of guilt. This means that the Bureau of Motor Vehicles (BMV) may experience a negligible administrative savings effect from a relatively small potential decrease in the number of driver's licenses suspended and reinstated.

The fee to reinstate a driver's license after an administrative license suspension or an OVI violation is \$475 and is distributed as follows:

- \$112.50 to the Statewide Treatment and Prevention Fund (Fund 4750)
- \$75 to the Reparations Fund (Fund 4020)
- \$75 to the Drug Abuse Resistance Education Program Fund (Fund 4L60)
- \$75 to the Services for Rehabilitation Fund (Fund 4L10)
- \$50 to the Indigent Drivers Interlock and Alcohol Monitoring Fund (Fund 5FF0)
- \$37.50 to the Indigent Drivers Alcohol Treatment Fund (Fund 7049)
- \$30 to the Public Safety – Highway Purposes Fund (Fund 5TM0)
- \$20 to the Trauma and EMS Services Fund (Fund 83P0)

Based on LBO research indicating that the number of OVI cases involving solely marijuana is relatively low in the context of OVI cases generally, any resulting decrease in license reinstatement revenue collected annually will be minimal.