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Bill Analysis

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SUMMARY

Driver's license suspensions

Drug offenses

- Removes the possible penalty of a driver's license suspension for any drug offense in which the highest degree of penalty is a misdemeanor.
- Authorizes any person whose license currently is suspended for those misdemeanor drug offenses to apply to have the suspension removed.
- Removes the possible penalty of a driver's license suspension for a felony drug offense unless the offender is convicted of or pleads guilty to the highest degree of felony imposed for the offense. (For example, a court may impose a suspension for first degree felony drug trafficking, but not for drug trafficking that is a second degree felony or less.)

Failure to pay child support

- Authorizes a person who is in default on child support payments to present evidence that a driver's license suspension would effectively prevent that person from paying child support or the arrearage due under the child support order.
- Authorizes a child support enforcement agency to consider that evidence in determining whether to notify the Registrar of Motor Vehicles to terminate a driver's license suspension on the person in default.
- Authorizes a person whose driver's license is suspended for failure to pay child support to petition a court for limited driving privileges in all circumstances, not just when the petition is made during contempt proceedings as under current law.

Truancy

- Removes a driver's license suspension or a denial of the opportunity to obtain a driver's license as possible penalties for a student who is habitually truant from school.

- Authorizes a student whose license currently is suspended or who currently is denied the opportunity to obtain a license because of the student's habitual truancy to apply to have the suspension or denial removed.

Proof of financial responsibility penalties

- Regarding the imposition of increased penalties for multiple violations of the offense of operating a motor vehicle without proof of financial responsibility, reduces the lookback period from five years to one year within which repeat violations must occur.
- Eliminates the suspension of motor vehicle registration rights and impoundment of a motor vehicle's certificate of registration and license plates as penalties for operating a motor vehicle without proof of financial responsibility.

DETAILED ANALYSIS

Driver's license suspensions

Drug offenses

Under current law, many drug offenses carry a possible penalty of a driver's license suspension.¹ The bill removes that possible penalty either entirely or partially, depending on the offense. Specifically:

1. If the highest degree of penalty for the offense is a misdemeanor, the bill removes the driver's license suspension entirely.
2. If the highest degree of penalty for the offense is a felony, the bill removes the driver's license suspension for all offenders except for those who are convicted of or plead guilty to the highest degree of felony imposed for the offense.

For example, under the bill, a court may still impose a driver's license suspension on a person who is convicted of a first degree felony for drug trafficking. However, the court would not be authorized to impose a driver's license suspension on a person who is convicted of a second degree felony or less for drug trafficking.²

The following table details the drug offenses and at what level of offense a court may impose a driver's license suspension on the offender, if any, under the bill. Under current law, for all of the offenses listed below, a court may impose a driver's license suspension regardless of the level of the offense.

¹ References to "driver's license suspension" throughout this analysis includes a suspension of a commercial driver's license, temporary instruction permit, commercial driver's temporary instruction permit, and motorcycle operator's license or endorsement.

² R.C. 2925.03(D).

Driver's license suspension changes under the bill		
Revised Code	Description	When court may impose suspension
R.C. 2923.01	Conspiracy to commit a felony drug trafficking, manufacturing, processing, or possession offense	Suspension removed entirely because offender subject to the next lesser degree of penalty than if the offense had been committed ³
R.C. 2925.02	Corrupting another with drugs	First degree felony offense only
R.C. 2925.03	Drug trafficking	First degree felony offense only
R.C. 2925.04	Illegal manufacture of drugs or illegal cultivation of marijuana	First degree felony offense only
R.C. 2925.041	Illegal assembly or possession of chemicals for the manufacture of drugs	Second degree felony offense only
R.C. 2925.05	Funding of drug or marijuana trafficking	First degree felony offense only
R.C. 2925.06 ⁴	Illegal administration or distribution of anabolic steroids	Fourth degree felony offense (same as current law)
R.C. 2925.11	Drug possession	First degree felony offense only
R.C. 2925.12	Possessing drug abuse instruments	Suspension removed entirely because highest offense is a misdemeanor
R.C. 2925.13	Permitting drug abuse	Fifth degree felony offense only
R.C. 2925.14	Illegal use or possession of drug paraphernalia (not for marijuana)	Suspension removed entirely because highest offense is a misdemeanor
R.C. 2925.141	Illegal use or possession of drug paraphernalia (for marijuana)	Suspension removed entirely because highest offense is a misdemeanor
R.C. 2925.22	Deception to obtain a dangerous drug	First degree felony offense only

³ For specified drug offenses, a person guilty of conspiracy is guilty of a felony of the "next lesser degree than the most serious offense that is the object of the conspiracy." Thus, under the provisions of the bill, a driver's license suspension as a possible penalty would no longer be imposed.

⁴ Not in the bill. The drug offense is a fourth degree felony without any lesser or higher degrees of penalty, and so did not require amendment.

Driver's license suspension changes under the bill		
Revised Code	Description	When court may impose suspension
R.C. 2925.23	Illegal processing of drug documents	Fourth degree felony offense only
R.C. 2925.31	Abusing harmful intoxicants	Fifth degree felony offense only
R.C. 2925.32	Trafficking in harmful intoxicants	Fourth degree felony offense only
R.C. 2925.36	Illegal dispensing of drug samples	Fourth degree felony offense only
R.C. 2925.37	Trafficking in counterfeit controlled substances, promoting and encouraging drug abuse, or fraudulent drug advertising	Fourth degree felony offense only
R.C. 4510.17	Commission of an out-of-state drug or OVI violation that is substantially similar to the Revised Code offenses	For the drug offenses, only when the offender's license, permit, or privilege is authorized or required to be suspended, had the offense occurred in Ohio

Termination of current suspension

The bill authorizes a person whose driver's license was suspended, prior to the effective date of the bill's changes to apply to the court to have the suspension terminated for the following misdemeanor drug offenses:

1. Possessing drug abuse instruments; and
2. Illegal use or possession of drug paraphernalia, both for and not for marijuana.

However, a person who either pled guilty to or was convicted of an OVI offense arising out of the same set of circumstances as the drug offense may not request the termination of the suspension. A court has discretion over whether to terminate the suspension for any applicant so requesting the termination under the bill.⁵

Failure to pay child support

Under current law, after a person defaults on his or her child support obligations and specified statutory warnings have been issued to that person, a child support enforcement agency may send a notice to the Registrar of Motor Vehicles to suspend the person's driver's license. The driver's license suspension is effective when the Registrar receives the notice. The

⁵ R.C. 2925.12(D), 2925.14(G), and 2925.141(G). Technical change also made in R.C. 4510.111 to remove a reference to a driver's license suspension for a minor who possesses, uses, purchases, or receives tobacco products (R.C. 2151.87). H.B. 166 of the 133rd General Assembly removed the suspension.

suspension terminates only after the Registrar receives further notice from the child support enforcement agency that either:

1. The person is no longer in default;
2. The person has complied with any related court orders or subpoenas; or
3. The agency has made other specified arrangements with the person based on his or her current circumstances.⁶

The bill authorizes a person in default of child support obligations to present evidence to the child support enforcement agency demonstrating that a driver's license suspension would effectively prevent that person from paying child support or any arrearage due under the child support order (e.g. a person who drives a commercial motor vehicle for a living). Additionally, the agency is authorized to consider that evidence in determining whether to request that the Registrar terminate the associated driver's license suspension (as part of the other arrangements made with the agency, see 3. above).⁷

Additionally, the bill authorizes a person whose driver's license is suspended for failure to pay child support to petition the court for limited driving privileges at any point, not just during a contempt proceeding, as under current law.⁸ Accordingly, the court, in its discretion, may grant those limited driving privileges for any of the following purposes:

1. Occupational, education, vocational, or medical purposes;
2. Taking the driver's or commercial driver's license examination;
3. Attending court-ordered treatment;
4. Attending any court proceeding related to the offense for which the offender's suspension was imposed;
5. Transporting a minor to a child care provider, daycare, preschool, school, or to any other location for purposes of receiving child care; and
6. Any other purpose the court determines to be appropriate.⁹

Furthermore, the bill removes the requirement that the court request the child support enforcement agency to provide an opinion on the agency's position (in person, through a representative, or through a written document) regarding the request for limited driving privileges.¹⁰

⁶ R.C. 3123.56 and 3123.58; R.C. 3123.54, 3123.55, 3123.57, not in the bill.

⁷ R.C. 3123.56(C)(2).

⁸ R.C. 3123.58.

⁹ R.C. 4510.021(A) and (B), not in the bill.

¹⁰ R.C. 3123.58(B)(1).

Truancy

The bill removes the possible administrative penalty of a driver's license suspension or denial or a driver's license for a habitually truant student. Under current law, a board of education of a school district may adopt a resolution that authorizes, as one possible repercussion for habitual truancy, a driver's license suspension imposed by the Registrar. If the student does not yet have a driver's license (or temporary instruction permit), the opportunity to obtain the license or permit may also be denied. Similar repercussions may also be imposed on a student who is suspended or expelled from school. The bill removes this potential driver's license suspension or denial.¹¹

Additionally, any student who received either a driver's license suspension or the denial of the opportunity to obtain a permit or a license before the bill's effective date because of habitual truancy may file a motion with the juvenile court to have that suspension or denial terminated. The court, in its discretion, may order the Registrar to terminate the suspension or the denial, cancel the record related to the suspension or denial, and return or reissue a license to the student.¹²

Proof of financial responsibility penalties

The bill reduces the penalties for failing to provide proof of financial responsibility (e.g., motor vehicle insurance) when operating a motor vehicle. Under current law, a person must continuously maintain proof of financial responsibility throughout the registration period of a motor vehicle. A person who operates a motor vehicle without proof of financial responsibility is subject to a variety of penalties, including a driver's license suspension, suspension of motor vehicle registration rights, impoundment of the certificate of registration and license plates of the subject motor vehicle, and reinstatement fees. If, within five years of the offense, a person commits additional violations of the prohibition, the person is subject to increasing penalties (primarily a longer driver's license suspension and higher reinstatement fees).¹³

The bill reduces the penalties associated with this offense in two ways. Specifically, it decreases the five-year lookback period for repeat offenses to a one-year period. Thus, for a repeat offense to trigger increased penalties, it has to occur within one year of the initial offense. Additionally, the bill eliminates the suspension of a person's motor vehicle registration rights and impoundment of the certificate of registration and license plates as penalties for the offense.¹⁴

¹¹ R.C. 3321.13, 3321.191, and 4510.32, repealed; conforming change in R.C. 4510.101.

¹² Section 4.

¹³ R.C. 4509.101(A).

¹⁴ R.C. 4509.101; conforming changes in R.C. 4503.20(F), 4507.212(E), 4509.37, 4509.67.

HISTORY

Action	Date
Introduced	01-31-23
