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H.B. 37
135th General Assembly

Bill Analysis

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Version: As Introduced

Primary Sponsors: Reps. Johnson and K. Miller

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SUMMARY

- Increases the financial penalties for operating a vehicle while under the influence of alcohol, drugs, or a combination of them (OVI).
- Increases the possible financial penalties for aggravated vehicular homicide committed as the proximate result of an OVI offense by raising the maximum fine to \$25,000.
- Alters certain prior offenses that result in a higher penalty for aggravated vehicular homicide that is the proximate result of an OVI offense.
- Increases the prison term for aggravated vehicular homicide committed as the proximate result of an OVI offense for offenders who committed certain other prior offenses (a prior OVI, aggravated vehicular homicide, aggravated vehicular assault, or involuntary manslaughter with a motor vehicle offense).
- Decreases the number of those other prior offenses that an offender must have committed in order for a court to impose the increased prison terms.

DETAILED ANALYSIS

OVI financial penalties

The bill increases the financial penalties for an offender that operates a vehicle while under the influence of alcohol, drugs, or a combination of them (OVI). The following table describes those increases.

Table 1: OVI financial penalties ¹		
Offense	Current law	Under the bill
1 st time offender	\$375 - \$1,075	\$750 - \$1,250
2 nd time offender (within 10 years)	\$525 - \$1,625	\$1,200 - \$2,000
3 rd time offender (within 10 years)	\$850 - \$2,750	\$2,000 - \$2,750
4 th or 5 th time offender (within 10 years); or 6 th time offender (within 20 years)	\$1,350 - \$10,500	\$2,300 - \$10,500
Prior felony-OVI offender (no time limitation)	\$1,350 - \$10,500	\$2,300 - \$10,500

The bill does not change the specific dollar amounts from each fine that must be distributed to any of the following funds or political subdivisions:

- The local Enforcement and Education Fund applicable for the location of the offense;
- The local political subdivision to offset the costs of the incarceration/treatment of the offender or the equipment for the offender (e.g., interlock device, home monitoring systems, etc.);
- The local Indigent Drivers' Alcohol Treatment Fund;
- The local Special Projects Fund; and
- The state Indigent Defense Support Fund.²

Because the specific amounts distributed for each purpose specified above do not change, any increased fine money collected will be disbursed as "otherwise provided by law," as specified in current law.³

¹ R.C. 4511.19(G)(1)(a)(iii); (b)(iii); (c)(iii); (d)(iii); and (e)(iii).

² R.C. 4511.19(G)(5)(a) to (f).

³ R.C. 4511.19(G)(5)(g).

Aggravated vehicular homicide penalties

The bill increases the penalties, particular the financial penalties and the prison term, for an offender that commits an aggravated vehicular homicide as the proximate result of an OVI offense.

Financial penalties

The bill increases the maximum possible financial penalty for aggravated vehicular homicide that is the proximate result of an OVI offense to \$25,000. Under current law, the court may impose a maximum financial penalty of \$15,000 for that offense on an offender with no prior offenses (2nd degree felony). Similarly, a court may impose a maximum financial penalty of \$20,000 for that offense on an offender with prior offenses (1st degree felony).⁴

Prison terms and decrease in required priors

The bill alters certain prior offenses that result in a higher penalty for aggravated vehicular homicide that is the proximate result of an OVI offense. The bill also increases the minimum mandatory prison terms for aggravated vehicular homicide that is the proximate result of an OVI offense when the offender has committed certain other prior offenses. Additionally, the bill decreases the number of those other prior offenses that an offender must have committed in order for a court to impose the increased prison terms.⁵ The following tables compare the penalties imposed under current law to the penalties proposed by the bill and the number of prior offenses required for imposition of each penalty. The bill does not make changes to the prison term imposed on an offender with no prior offenses. However, the first table below provides the penalties for that base offense for purposes of comparison to the changes otherwise made by the bill.

Shorthand terms for the tables

For the sake of brevity, the tables use certain shorthand phrases to replace longer phrases that are used within the Revised Code. Specifically:

“Death of another” includes the unlawful termination of another’s pregnancy.

“Motor vehicle” also includes a motorcycle, snowmobile, locomotive, watercraft, or aircraft.

“OVI offense” means a violation of operating a vehicle under the influence, operating a watercraft under the influence, operating an aircraft under the influence, and any substantially equivalent municipal ordinance.⁶

“Prior offense” includes any violation of a substantially equivalent municipal ordinance, former law of Ohio, current or former law of another state, or current or former federal law.⁷

⁴ R.C. 2903.06(B)(2)(e); R.C. 2929.18, not in the bill, specifies default felony financial penalties.

⁵ R.C. 2903.06(B)(2) and 2929.142.

⁶ R.C. 2903.06(A)(1).

Penalty tables

Table 2: Penalties for the base offense ⁸		
	Current law	Under the bill
Offense	No person, while operating a motor vehicle, shall cause the death of another, as the proximate result of committing an OVI offense	Same as current law
Prior offenses	None	Same as current law
Degree of penalty	2 nd degree felony	Same as current law
Prison term	<i>For offenses that occur prior to March 22, 2019:</i> a definite term of 2, 3, 4, 5, 6, 7, or 8 years <i>For offenses that occur on or after March 22, 2019:</i> a minimum mandatory term of 2, 3, 4, 5, 6, 7, or 8 years ⁹	Same as current law

Table 3: Increased penalties for certain prior offenses ¹⁰		
	Current law	Under the bill
Prior offenses	<ol style="list-style-type: none"> 1. Driving without a valid driver's license;¹¹ 2. Any prior violation of the vehicular homicide statute; and 3. Any prior traffic-related homicide, manslaughter, or assault offense.¹² 	<ol style="list-style-type: none"> 1. Same as current law; 2. Any prior violation of the vehicular homicide statute that is not OVI-related; and 3. Any prior violation of the vehicular assault statute that is not

⁷ R.C. 2903.06(G)(2).

⁸ Offense: R.C. 2903.06(A)(1) and (B)(2)(a); Prison term: R.C. 2903.06(E)(1) and 2929.14(A)(2).

⁹ The maximum term is determined based on the formula in R.C. 2929.144.

¹⁰ Offense: R.C. 2903.06(A)(1) and (B)(2)(b); Prison term: R.C. 2903.06(E)(1) and 2929.14(A)(1).

¹¹ "Without a valid driver's license" includes driving under a license suspension or cancellation, driving without a license, or driving with a license that has been expired for more than six months. R.C. 2903.06(B)(2)(b)(i).

		OVI-related.
Degree of penalty	1 st degree felony	Same as current law
Prison term	<p><i>For offenses that occur prior to March 22, 2019: a definite term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years</i></p> <p><i>For offenses that occur on or after March 22, 2019: a minimum mandatory term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years¹³</i></p>	Same as current law

Table 4: Specification with higher enhanced prison term¹⁴

	Current law	Under the bill
Prior offenses	<ol style="list-style-type: none"> 1. Three or more prior OVI offenses, within the previous ten years; 2. Three or more prior OVI-related vehicular homicide offenses, within the previous ten years; 3. Three or more prior OVI-related vehicular assault offenses, within the previous ten years; 4. Three or more prior OVI-related involuntary manslaughter offenses, within the previous ten years; 5. Three or more of any combination of (1) through (4) above within the previous ten years; or 6. A second or subsequent prior felony OVI violation. 	<ol style="list-style-type: none"> 1. One or more prior OVI offenses, within the previous ten years; 2. One or more prior OVI-related vehicular homicide offenses, regardless of when the offense occurred; 3. One or more prior OVI-related vehicular assault offenses, regardless of when the offense occurred; 4. One or more prior OVI-related involuntary manslaughter offenses, regardless of when the offense occurred; 5. No longer required because one offense is enough to trigger the higher enhanced prison term; or 6. One prior felony OVI violation.

¹² "Traffic-related homicide, manslaughter, or assault offense" means any violation of R.C. 2903.04(D), 2903.06, or 2903.08, or the prior versions of R.C. 2903.06, 2903.07, or 2903.08 (from prior to March 23, 2000).

¹³ The maximum term is determined based on the formula in R.C. 2929.144.

¹⁴ Offense: R.C. 2903.06(A)(1) and (B)(2)(c); Prison term: R.C. 2903.06(E)(1) and 2929.142.

Table 4: Specification with higher enhanced prison term ¹⁴		
Current law		Under the bill
Degree of penalty	1 st degree felony	Same as current law
Prison term	<p><i>For offenses that occur prior to March 22, 2019: a definite term of 10, 11, 12, 13, 14, or 15 years</i></p> <p><i>For offenses that occur on or after March 22, 2019: a minimum mandatory term of 10, 11, 12, 13, 14, or 15 years¹⁵</i></p>	<p><i>For offenses that occur prior to March 22, 2019: a definite term of 10, 11, 12, 13, 14, or 15 years</i></p> <p><i>For offenses that occur on or after March 22, 2019, but before the bill's effective date: a minimum mandatory term of 10, 11, 12, 13, 14, or 15 years</i></p> <p><i>For offenses that occur on or after the bill's effective date: a minimum mandatory term of 15, 16, 17, 18, 19, or 20 years</i></p>

Court warning

The bill requires a court to warn any person that is convicted of or pleads guilty to an OVI offense of the penalties imposed for aggravated vehicular homicide, given that one prior OVI offense within ten years may result in the higher financial penalties and increased minimum mandatory prison term.¹⁶

HISTORY

Action	Date
Introduced	02-15-23

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¹⁵ The maximum term is determined based on the formula in R.C. 2929.144.

¹⁶ R.C. 4511.19(G)(9).