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H.B. 56*
135th General Assembly

Bill Analysis

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Version: As Reported by Senate Judiciary

Primary Sponsors: Reps. Plummer and White

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SUMMARY

Fleeing law enforcement

- Increases the penalty for willfully eluding or fleeing a police officer using a motor vehicle from a first degree misdemeanor to a fourth degree felony.
- Relatedly, increases the penalty from a fourth degree felony to a third degree felony if the flight is immediately after the commission of a felony.
- Also relatedly, increases the possible prison term for circumstances when the flight:
 - Was the proximate cause of serious physical harm to persons or property; or
 - Caused a substantial risk of serious physical harm to persons or property.

Policy for pursuit

- Requires a law enforcement entity to consider pursuit policy standards and best-practice recommendations from the Ohio Collaborative Community-Police Advisory Board or a similar accrediting entity and to train its peace officers on the policy.

Stunt driving and street takeover

- Prohibits any person from knowingly participating in stunt driving (i.e., burnouts, doughnuts, drifting wheelies, or allowing passengers to ride partially or fully outside the vehicle) on any public road, street, or highway, or private property open to the public.
- Prohibits a person from knowingly participating in a street takeover (i.e., blocking or impeding the regular flow of vehicle or pedestrian traffic for the purpose of street racing

* This analysis was prepared before the report of the Senate Judiciary Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

or stunt driving) on any public road, street, highway, or private property that is open to the public.

- Makes the two new criminal offenses a first degree misdemeanor, with a possible driver's license suspension of 30 days to three years, and assessment of six points on the offender's license.
- Specifies that anyone rendering assistance to stunt driving or street takeover must be charged the same as the participants.
- Prohibits street racing on private property open to the public and applies the current law penalties for street racing on public roads, streets, and highways to the offense.
- Exempts competitive operation of vehicles on public or private property from the above prohibitions when either the political subdivision with jurisdiction of the location or the owner of the property knowingly allows such operation of the vehicles at that location.

Vehicular homicide and assault

- Adds a utility vehicle and a mini-truck to the list of vehicles that can be used to commit a vehicular homicide or assault offense.
- Corrects a current law reference pertaining to consecutive prison terms for certain license suspension and OVI offenses committed in conjunction with involuntary manslaughter.

Third-party driver's exam administrators

- Clarifies who may be a third-party administrator for the standard motor vehicle skills test, which includes a clerk of the court of common pleas.
- Requires any fees collected by a clerk of the court of common pleas serving as a third-party administrator to be deposited into the existing Certificate of Title Administration Fund.
- Requires fees that have been so collected by clerks serving as third-party administrators between April 12, 2021, and the bill's effective date to be deposited into that fund.

Indigent Defense Support Fund: funding restoration

- Restores a provision from prior law that allocated increased amounts of the reinstatement fee associated with failure to maintain proof of financial responsibility to the Indigent Defense Support Fund.

DETAILED ANALYSIS

Fleeing law enforcement

The bill increases the penalties for willfully eluding or fleeing a police officer using a motor vehicle. Under current law, the base offense is a first degree misdemeanor. The bill increases the base offense to a fourth degree felony. If the jury or judge (as trier of fact) finds

beyond a reasonable doubt that the flight was immediately after the commission of a felony, the bill increases the penalty from a fourth degree felony to a third degree felony. The bill retains the current law third degree felony designation for eluding or fleeing a police officer that either (1) was the proximate cause of serious physical harm to persons or property, or (2) caused a substantial risk of serious physical harm to persons or property. However, to differentiate flight after a felony from flight that caused or risked serious physical harm, the bill increases the possible prison term for the latter offense.¹

The implications of the bill's penalty increases are listed in the tables below.

| Penalties for fleeing police officer with motor vehicle² | | |
|--|--|--------------------------------------|
| | Current law | Under the bill |
| Degree of offense | 1 st degree misdemeanor | 4 th degree felony |
| Financial sanctions | Up to \$1,000 | Up to \$5,000 |
| Confinement | Jail term: up to 180 days | Prison term: between 6 to 18 months |
| Driver's license suspension | Class 5 suspension (6 months to 3 years) | Class 2 suspension (3 years to life) |

| Penalties for fleeing police officer with motor vehicle after committing felony³ | | |
|--|--------------------------------------|-------------------------------------|
| | Current law | Under the bill |
| Degree of offense | 4 th degree felony | 3 rd degree felony |
| Financial sanctions | Up to \$5,000 | Up to \$10,000 |
| Confinement | Prison term: between 6 to 18 months | Prison term: between 9 to 36 months |
| Driver's license suspension | Class 2 suspension (3 years to life) | Same as current law |

¹ R.C. 2921.331(C) and 2929.14(A)(3)(a).

² R.C. 2929.14; R.C. 2929.18, 2929.24, 2929.28, and 4510.02, not in the bill.

³ R.C. 2929.14; R.C. 2929.18 and 4510.02, not in the bill.

| Penalties for fleeing police officer with motor vehicle and either causing or risking serious physical harm to persons or property⁴ | | |
|---|--------------------------------------|--------------------------------------|
| | Current law | Under the bill |
| Degree of offense | 3 rd degree felony | Same as current law |
| Financial sanctions | Up to \$10,000 | Same as current law |
| Confinement | Prison term: between 9 to 36 months | Prison term: between 12 to 60 months |
| Driver's license suspension | Class 2 suspension (3 years to life) | Same as current law |

Policy for pursuit

The bill alters the existing requirement that each law enforcement entity adopt a policy for the pursuit of a motor vehicle. Specifically, the bill requires the policies to be written and expressly requires officers to be trained on the policy. The bill does not specify details for what must be included in the policy, but does require a law enforcement entity to consider pursuit policy standards and best-practice recommendations as established by the Ohio Collaborative Community-Police Advisory Board or a similar law enforcement accrediting entity.⁵

Street racing, stunt driving, and street takeover

The bill creates two new offenses related to, but distinct from, street racing: specifically, stunt driving and street takeover. The bill prohibits a person from knowingly participating in stunt driving (i.e., performing burnouts, doughnuts, drifting, wheelies, or allowing a passenger to ride either partially or fully outside of the vehicle) on any public road, street, or highway, or on private property open to the public. Additionally, it prohibits a person from knowingly participating in street takeover (i.e., blocking or impeding the regular flow of vehicle or pedestrian traffic for the purpose of street racing or stunt driving) in those same spaces. Anyone rendering assistance to stunt driving or street takeover must be charged the same as the participants, consistent with those rendering assistance to street racing under current law.⁶

Similar to the new offenses, current law already prohibits street racing (i.e., operating two or more vehicles from a point side-by-side at accelerating speeds in a competitive attempt to out-distance each other or timing vehicles that start and end at the same point) on public

⁴ R.C. 2929.14; R.C. 2929.18 and 4510.02, not in the bill.

⁵ R.C. 2935.031.

⁶ R.C. 4511.251(A)(6) and (7), (B), and (D).

roads, streets, or highways. The bill expands the prohibition to include private property open to the public.⁷

Penalties

The bill applies the current law penalties for street racing on a public road, street, or highway to stunt driving and street takeover and to street racing on private property open to the public. Those penalties are a first degree misdemeanor, a 30-day to three year driver's license suspension, and six points assessed on the offender's driver's license.⁸

Exemption

The bill exempts the competitive operation of vehicles on public or private property from the prohibitions against street racing, stunt driving, or street takeover when either the political subdivision with jurisdiction of the location or the owner of the property knowingly allows such operation of the vehicles at that location.⁹ Thus, an authorized vehicle race at a county fair, closed track, or city event would not be subject to the prohibitions. A similar exemption exists in current law for reckless operation of a vehicle on public and private property that is not a street or highway.¹⁰

Vehicular homicide and assault

The bill expands the types of vehicles that can be used to commit a vehicular homicide or assault offense to include a utility vehicle and a mini-truck. Under current law, the prohibitions against committing vehicular homicide or assault include the driver operating a motor vehicle, a motorcycle, a snowmobile, a locomotive, a watercraft, and an aircraft.¹¹

A utility vehicle and a mini-truck are "vehicles" for purposes of most traffic laws because they operate on wheels. However, because they are designed primarily for off-road use and are not expected to meet the *motor vehicle* equipment requirements for operating on streets and highways, they are only subject to laws pertaining to *vehicles*, and not to *motor vehicles*.¹²

As the result of this nuance, the Ohio Supreme Court recently ruled that the operator of a utility vehicle, who operated it while under the influence of alcohol and injured multiple people after crashing, was not guilty of aggravated vehicular assault.¹³ The bill directly responds

⁷ R.C. 4511.251(A)(1) and (B).

⁸ R.C. 4510.036 and 4511.251(C).

⁹ R.C. 4511.251(E).

¹⁰ R.C. 4511.201, not in the bill.

¹¹ R.C. 2903.06 and 2903.08.

¹² A "vehicle" means everything on wheels or runners, with a few exceptions. A "motor vehicle" means any vehicle that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires, with certain exceptions that expressly exclude a utility vehicle and a mini-truck from the meaning of motor vehicle. R.C. 4501.01(A) and (B), not in the bill.

¹³ *State v. Fork*. 2024-Ohio-1016.

to that ruling by making the use of utility vehicles and mini-trucks subject to the vehicular homicide and assault statutes.

Consecutive prison term correction

The bill corrects a current law reference pertaining to consecutive prison terms of certain offenses committed in conjunction with involuntary manslaughter. Current law requires an offender to serve a jail term or sentence of imprisonment imposed for a misdemeanor violation of specified driver's license suspension-related offenses (e.g., driving while under a suspension) or OVI offenses consecutively to a prison term imposed for a felony violation of vehicular homicide, vehicular assault, OVI, or involuntary manslaughter involving the operation of a *motor vehicle*. The bill changes the reference to "motor vehicle" to the broader category of "vehicle," thus, making it consistent with the involuntary manslaughter statute, which already encompasses all vehicles, not just motor vehicles.¹⁴

Third-party driver's exam administrators

Under current law, the Director of Public Safety may authorize a third party to administer the standard motor vehicle skills test, which is required for all first-time drivers to obtain an Ohio driver's license. Current law does not specify or limit who may serve as a third-party administrator. The bill does not change current practice, but clarifies that any person, any state agency, or any agency, department, or instrumentality of local government, including a clerk of the court of common pleas may serve as a third-party administrator, if approved by the Director.¹⁵ Currently, those entities are also expressly eligible to be third-party administrators for the commercial driver's license skills test.¹⁶

Several clerks of the court of common pleas already serve as third-party administrators for the motor vehicle skills test. However, it has been unclear where the fees they collect from such tests should be deposited. The bill clarifies the issue by requiring the clerks to deposit the fees into the existing Certificate of Title Administration Fund. That fund is used to pay:

1. The clerk's costs for processing watercraft and vehicle titles; and
2. The clerk an annual \$8,000 supplement for performing the duties of a deputy registrar, if applicable.

Any excess funds are transferred to the county general fund.¹⁷ The bill requires all fees collected since April 12, 2021, and the bill's effective date, by a clerk serving as a third party administrator, to be deposited into the Certificate of Title Administration Fund.¹⁸

¹⁴ R.C. 2929.41(B)(3).

¹⁵ R.C. 4507.112(A).

¹⁶ R.C. 4506.09(B), not in the bill.

¹⁷ R.C. 325.33.

¹⁸ Section 3.

Indigent Defense Support Fund: funding restoration

The bill restores a provision from prior law that allocated increased amounts of the reinstatement fee associated with failure to maintain proof of financial responsibility (i.e., auto insurance) to the Indigent Defense Support Fund (IDSF). Specifically, it allocates \$50 of each \$300 reinstatement fee (for a second offense within five years), and \$100 of each \$600 reinstatement fee (for a third or subsequent offense within five years) to the IDSF.¹⁹

In H.B. 33 of the 135th General Assembly, the General Assembly attempted to lower the reinstatement fee associated with a driver's license suspension for failing to have auto insurance to \$40 for all offenses. The Governor partially vetoed the change, however, resulting in the reinstatement fees being \$40 for a first offense (instead of \$100 as under prior law), \$300 for a second offense within five years, and \$600 for a third or subsequent offense within five years.²⁰

A corresponding change made at that time, however, was also to lower the portion of the reinstatement fee distributed to the IDSF to \$10. Prior law required a distribution of \$25 for a first offense, \$50 for a second offense within five years, and \$100 for a third or subsequent offense within five years (given the increase in the reinstatement fee). The increase in distributions to the IDSF was not included in the Governor's veto. Thus, distributions to that fund became \$10 for all offenses.²¹ The bill corrects that discrepancy and increases distributions back to \$50 for a second offense within five years and \$100 for a third or subsequent offense within five years.

HISTORY

| Action | Date |
|-------------------------------|----------|
| Introduced | 02-16-23 |
| Reported, H. Criminal Justice | 10-18-23 |
| Passed House (84-6) | 12-13-23 |
| Reported, S. Judiciary | --- |

ANHB0056RS-135/ar

¹⁹ R.C. 4509.101(E).

²⁰ R.C. 4509.101(A)(5)(a).

²¹ See also page 511 of the LSC [Final Analysis for H.B. 33 \(PDF\)](#), which is available on the General Assembly's website: legislature.ohio.gov.