

Ohio Public Safety

Fact Sheet



Senate Bill 123 (Oelslager)

PURPOSE

Senate Bill 123 is based upon the recommendations of the Ohio Criminal Sentencing Commission. This culmination of several years' work simplifies Ohio's traffic code – making it more user-friendly. It places penalties in the same section as the offense. It attempts to eliminate cumbersome language to make the statutes read more simply.

GENERAL OVERVIEW

Effective Date – January 1, 2004; offenses under the bill only apply after that date.

Point Assessment

Bases the points to be assessed to a driver's record on the speed over the limit, not the number of prior speed violations within one year.

- 0 points for going less than 5 MPH over the limit in town or less than 10 MPH over the limit on highways.
- 2 points for most speeding violations.
- 4 points for going 30 MPH or more.

The following offenses carry 6 points: vehicular homicide, vehicular manslaughter, aggravated vehicular assault, vehicular assault, fleeing or eluding a law enforcement officer, failure to stop and disclose identity at an accident scene, street racing, driving under suspension, failure to reinstate a license, operating a vehicle under the influence (OVI), unauthorized use of a motor vehicle, any felony motor vehicle violation or any felony committed with a motor vehicle.

The following offenses carry 4 points: underage drinking and driving, operating a motor vehicle in willful or wanton disregard of property or person, exceeding the speed limit by 30 MPH or more.

The following offenses carry 2 points: exceeding speed limit of 55 MPH or higher by more than 10 MPH, but less than 30 MPH; exceeding speed limit of less than 55 MPH by more than 5 MPH, but less than 30 MPH; operating a vehicle in violation of a Registrar's restriction; all other moving violations.

The bill permits individuals to enroll in remedial driving classes in order to receive a 2 point credit, up to 5 times in a lifetime, once every 3 years.

Driver License Suspensions

Standardizes suspensions by placing court suspensions in Classes 1 through 7 and BMV suspensions in Classes A through F.

Class 7 (up to 1 year)

- Substantial risk to children (was up to 90 days)
- Consuming liquor in a motor vehicle (was up to 6 months)
- Obtaining liquor underage (was up to 6 months)
- 2nd offense of misrepresenting age to obtain liquor (was up to 60 days)
- Wrongful entrustment – also carries a 30 day vehicle immobilization and plate impoundment – 60 days with a prior – vehicle forfeiture with 2 priors

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- Failure to appear after using one's driver's license as bond (current law declares a forfeiture)
- Suspension as condition for probation
- Driving without a valid license when license was expired more than 6 months
- Failure to reinstate license

Class 6 (3 months to 2 years)

- Soliciting sex using a motor vehicle
- 3rd violation of misrepresenting age to obtain liquor (was up to 90 days)
- Vehicular manslaughter

Class 5 (6 months to 3 years)

- Reckless operation (was up to 1 year)

Class 4 (1 to 5 years)

- Delinquent child carrying gun to school and related offenses (was 1 to 3 years)
- Negligent vehicular homicide
- Vehicular manslaughter if a prior traffic death or assault
- Reckless vehicular assault
- Suspension as condition for probation (subsequent offenses)

Class 3 (2 to 10 years)

- Negligent vehicular homicide if a prior traffic death or assault
- Aggravated vehicular assault while OVI
- Reckless vehicular assault with prior traffic death or assault

Class 2 (3 years to life)

- Aggravated vehicular homicide when reckless, but no OVI
- Aggravated vehicular assault if prior traffic death or assault
- Failing to comply with a law enforcement officer's order

Class 1 (lifetime)

- Involuntary manslaughter
- Aggravated vehicular homicide while OVI
- Failing to comply with a law enforcement officer's order (subsequent offenses) (currently 10 year suspension)

Class F (until conditions are met)

- Nonspecific suspensions for child support default
- Failure to deposit FR security
- Default on payments for costs of an accident
- Interstate FR suspension
- Judgment debtors
- Failure to attend school

Class E (3 months)

- 1st FR suspension
- 2 juvenile moving violations

Class D (6 months)

- Juvenile drug offense/disorderly conduct while voluntarily intoxicated, unless successfully complete a drug/alcohol program
- Violating license restrictions (same as current law)
- Underage OVI

Class C (1 year)

- 2nd FR violation
- 3 juvenile moving violations

Class B (2 years)

- 3rd Financial Responsibility offense within 5 years (was a 1 year suspension)

Class A (3 years)

Permits courts to set up payment plans or delay the payment date and allow offenders to drive to work to earn money for the fees (payments cannot be less than \$50 a month). Expands the law governing immobilizing or disabling devices.

- They can be used as a condition of any suspension, unless prohibited by statute.
- Expands devices that can be used beyond ignition interlocks to other technologies approved by the Department of Public Safety.
- Allows courts to experiment with new technologies (prototypes).

Permits courts to end lifetime suspensions and suspensions longer than 15 years if, after 15 years, the offender shows responsibility and sobriety at a hearing attended by the victim. On a subsequent conviction, the court could reimpose a lifetime suspension.

Authorizes a suspension for not stopping after an accident.

Driving Privileges

Renames occupational driving privileges to limited driving privileges; expands privileges to include occupational, educational, vocational and medical purposes, taking driver's license exam, attending court-ordered treatment, or other court-ordered purposes, and to let a juvenile practice driving with an adult.

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Does not allow privileges during BMV suspensions unless clearly permitted by statute.

Permits judges to grant privileges for drug offenses.

Allows privileges after the "hardtime" suspension for OVI (operating a vehicle under the influence) if the driver displays restricted plates.

Increases the opportunities for when a suspended driver may drive while displaying restricted plates; addresses when a driver is from another state or is driving an employer's vehicle.

- If person must drive a vehicle at work, the vehicle does not need to bear the restricted plates if the employer was notified of the suspension and if the person has proof of the employer's identification while driving. Does not apply if the driver wholly or partly owns the business.
- If the driver's vehicle is registered in another state, instead of displaying the restricted plates, the driver must display a decal on the vehicle that indicates the vehicle is driven under restriction.

Forbids allowing driving privileges when a license is suspended for failing to heed an officer's order.

Adds commercial driver's license holders to the list of those who face suspensions for non-support. Driving without a valid license will be subject to the following conditions:

- Minor misdemeanor (if license expired no longer than 6 months, as now)
- 4th degree misdemeanor (if license expired longer than 6 months)
- 3rd degree misdemeanor (with one prior conviction in past 3 years)
- 2nd degree misdemeanor (with 2 prior convictions in past 3 years)
- 1st degree misdemeanor (with 3 or more priors in past 3 years)
- If the offender has not violated this statute in past 3 years, the court cannot impose a license suspension.

Operating a Vehicle Under the Influence

Creates a new "physical control" offense to cover being intoxicated at the wheel of a car, but not driving.

Eliminates third party seizures of cars.

Makes "wrongful entrustment" illegal – when a vehicle owner allows another to drive if the owner knows or has reasonable cause to believe that the driver is unlicensed, under suspension, does not have financial responsibility or is under the influence.

Repeals the "innocent owner" defense because of the elimination of 3rd party seizures.

Sets intoxication levels for blood

serum/plasma for both motor vehicle and watercraft laws; currently there are no equivalent levels for blood serum or plasma.

Harmonizes Watercraft OVI laws with OVI motor vehicle laws.

Specifies that Criminal, not Traffic, Rules apply to felony OVIs; Traffic Rules will continue to govern misdemeanor OVIs.

Clarifies that no driving privileges are allowed if an offender had 3 or more OVI priors in 6 years (currently 7 years).

Clarifies that 4th degree felony OVI offenders sentenced to mandatory jail term are eligible for electronic monitoring after serving the mandatory term; F-3 and F-4 offenders sentenced to prison are not eligible for electronic monitoring.

Establishes that driving under suspension and driving under an OVI suspension count as prior offenses, precluding expungement, when suspensions were imposed for OVI. Other DUSs and other driver's license law violations generally no longer preclude later expungements.

Outlines the following suspensions for OVI

- 1st offense in 6 years – 6 month suspension – 15 days hard suspension
- 2nd offense in 6 years – 1

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year suspension – 30 days
hard suspension

- 3rd offense in 6 years – 1 year suspension – 180 days hard suspension
- 4th offense in 6 years – 3 year suspension – all hard suspension.

Outlines the following hard suspensions for refusing to submit to a chemical test:

- 1st refusal – 30 days
- 2nd refusal – 90 days
- 3rd refusal – 1 year
- subsequent refusals – 3 years.

Financial Responsibility (FR)

Permits courts to grant limited driving privileges without waiting 31 days on a 1st offense failure to maintain FR proof if the offender is able to show proof. On 2nd offenses, privileges could be granted, with FR proof, after 15 days. No privileges for subsequent offenses.

Authorizes the Registrar to terminate an FR suspension if the owner shows by clear and convincing evidence: 1) he or she customarily maintains proof; 2) FR was not in effect because the vehicle was inoperable or operated seasonally, because a person other than the owner was at fault for the lapse, or because the lapse occurred due to

excusable neglect that is unlikely to recur and with no purpose to evade the FR law; and 3) it is the owner's first petition for relief.

Requires a person who receives a lower-level BMV suspension (Classed D through

F) to maintain proof of FR for 3 years, instead of the current 5 years.

Arrests

Permits arrests for driving under a suspension on private roads.

Driving School Laws

Bans persons with a felony conviction in the past 10 years from teaching.

Bans persons with 1st or 2nd degree misdemeanors in the past 5 years from teaching if the misdemeanor reasonably relates to the person's fitness.

Makes it a 4th degree misdemeanor to act as a driving training instructor without a proper license.

Creates the offense of knowingly making a false statement on an instructor application.

Prohibits against operating a driver training school without a proper license.

Prohibits operators of driver training schools from using vehicles that fall below minimum standards set by ODPS.

Miscellaneous

Reduces the \$250 to \$500 penalty for handicap parking violations to a maximum of \$100 if the offender proves he or she had a valid placard or plates that were not displayed.

Exempts "U-Haul" type rental vehicle drivers from the requirement that they have a commercial driver's license.

Permits the Registrar, for good cause, to examine a license holder to determine his or her

competency. The examination is currently permitted on 5 days notice. The bill extends the notice period to 30 days.