

# Ohio Public Safety

## Resource Sheet



### House Bill 163 (Oelslager)

#### Purpose

To provide an additional prison term or term of imprisonment for certain repeat OVI or OVUAC offenders; to provide an increased penalty for an OVI conviction if the offender refused to take a chemical test after being arrested for the offense and has a prior OVI or OVUAC conviction; to require municipal, county, and common pleas court clerks to retain admissible evidence of criminal convictions for fifty years after the entry of judgment of that conviction; to give the police force of a township with a population of greater than fifty thousand the same authority to make arrests for specified traffic offenses on interstate highways as now exists for the police force of a township with a population greater than sixty thousand; to increase the penalty for vehicular assault when the offender also fails to stop at the scene of the accident resulting in that offense; to modify the definition of “committed in the vicinity of a school” in the Controlled Substance Law to specify that it is irrelevant whether the person who engages in the prohibited conduct knows that conduct is being committed on school premises, in a school building, or within 1,000 feet of any school premises; to specifically authorize continuous alcohol monitoring as a sanction in criminal and delinquent child cases; and to correct errors in and otherwise modify certain provisions that contain some of the Ohio Criminal Sentencing Commission’s traffic law revisions.

#### Summary

- ✍ Enacts an additional prohibition within the section that contains state OVI that prohibits a person who, within 20 years of the conduct has previously been convicted of or pleaded guilty to state OVI, state OVUAC or a municipal OVI offense, from doing both of the following: (1) operating any vehicle within Ohio while under the influence of alcohol, a drug of abuse, or a combination of them, and (2) subsequent to being arrested for operating the vehicle (1), being asked by a law enforcement officer to submit to a chemical test or tests under the vehicle-related Implied Consent Law, and being advised by the officer in accordance with R.C. 4511.192 of the consequences of the person’s refusal or submission to the test or tests, refusing to submit to the test or tests.
- ✍ Specifies that a violation of the new prohibition is the offense of state OVI, and provides that the punishment for a violation of the new prohibition is the same as the punishment provided under existing law, with modifications made by the bill, for a violation of a high-end state OVI prohibition.
- ✍ Provides that state OVI is a felony of the fourth degree if the offender previously has been convicted of five or more offenses of state OVI, a comparable municipal ordinance

#### Index

- Additional Mandatory Prison Term..... 2
- Restricted License Plates.....2
- Limited Driving Privileges.....3
- Restricted Plates.....3
- Continuous Alcohol Monitoring.....4

# House Bill 163 continued

violation, state OVUAC, or any of a list of specified vehicle-related and alcohol-related offenses (hereafter, collectively referred to as “predicate offenses”), within 20 years of the offense.

- ✍ Provides an additional mandatory prison term of one, two, three, four, or five years for state OVI when it is a felony of the third degree or a felony of the fourth degree, if the offender also pleads guilty to or is convicted of a “State OVI Five Prior Conviction Specification” charging prior convictions, within 20 years of committing the offense, of five or more predicate offenses as enacted in the bill.
- ✍ Provides that, when a court imposes a mandatory term of local incarceration for a fourth degree felony OVI offense, the court imposes any additional community control sanction, and the offender violates any condition of the sanction, the court may take any action prescribed in R.C. 2929.15(B) relative to the offender’s violation of the sanction, including imposing a prison term on the offender pursuant to that provision.
- ✍ Provides that, when a court imposes a prison sentence for a felony OVI offense, the court also may sentence the offender to community control sanctions.
- ✍ Except when the person’s OVI offense was “high-end state OVI” or a comparable municipal OVI provision, eliminates the requirement that a court must require a person to display restricted license plates as a condition of granting limited driving privileges when a license has been suspended for state or municipal OVI if the person has not been convicted of one or more prior state OVI or municipal

OVI offenses or “equivalent offenses” within the previous six years and has not been convicted of felony state OVI any time previously; the bill’s elimination of this requirement does not apply when the person’s OVI offense was “high-end state OVI” or a comparable municipal OVI provision.

- ✍ Provides an additional mandatory term of imprisonment of up to six months for state OVUAC when the offender also pleads guilty to or is convicted of a “State OVUAC Five Prior Conviction Specification” charging prior convictions, within 20 years of committing the offense, of five or more predicate offenses as enacted in the bill, and the court imposes a term of imprisonment for the underlying state OVUAC offense.
- ✍ Lowers from 60,000 to 50,000 the threshold population that gives township police officers and township constables authority to make arrests for specified types of Traffic Law violations on highways included as part of the interstate highway system that are within the township.
- ✍ Requires the clerk of each municipal court, county court, and court of common pleas notwithstanding the Revised Code’s other records retention and destruction provisions, to retain documentation regarding each criminal conviction and plea of guilty involving a case that is or was before the court; requires the documentation to be in a form that is admissible as evidence in a criminal proceeding as evidence of a prior conviction; requires the clerk to retain this documentation for a period of 50 years after the entry of judgment in the case; and specifies that these provisions apply to records cur-

# House Bill 163 continued

rently retained and to records created on or after the bill's effective date, and makes other changes in the retention provisions.

- ⌘ Increases from a felony of the fourth degree to a felony of the third degree the penalty for vehicular assault if, in the same course of conduct that resulted in the vehicular assault, the offender also committed a specified "failure to stop after an accident" offense.
- ⌘ Changes the prohibited concentration of alcohol in the person's blood serum or plasma from .96% or more by weight per unit volume to .096% or more by weight per unit volume of alcohol in the state watercraft OVI and OVUAC law.
- ⌘ Expands the authorization to petition for limited driving privileges to also apply to an Ohio resident (including a juvenile) who is convicted of or pleads guilty to a statute of another state or federal statute that is substantially similar to any drug offense prohibited by R.C. 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.14, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36, or 2925.37 and whose license, permit, or privilege has been suspended by the Registrar (a Class D suspension, a definite period of six months).
- ⌘ Modifies when the Registrar is required to terminate an ALS suspension for state or municipal OVI or OVUAC so that the Registrar is required to terminate a suspension upon receipt of notice that the person has entered a guilty plea to or that person has been convicted after entering a plea of no contest under Criminal Rule 11 to state OVI or OVUAC or municipal

OVI.

- ⌘ Adds three exceptions to the prospective nature of changes made by Am. Sub. S.B. 123 so that, under the bill, the following apply to conduct or an offense committed prior to January 1, 2004: (1) a person whose driver's or commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege was suspended by a court may apply to the sentencing court for limited driving privileges pursuant to R.C. 4510.021(A), (2) a person whose license, permit, or privilege was suspended by the Registrar of Motor Vehicles may apply for limited driving privileges under R.C. 4510.021(B) if limited driving privileges are expressly authorized by a section of the Revised Code for the type of conduct or offense that caused the suspension, and (3) a person whose license, permit or privilege was suspended, canceled, or revoked for life may file a motion for modification or termination of the suspension, cancellation, or revocation in accordance with R.C. 4510.54. Finally, the bill requires that the terms and conditions of any limited driving privileges granted under these three provisions are to be governed by the law in effect on and after January 1, 2004.
- ⌘ Amends several sections that refer to R.C. 4511.194, which is the offense of having physical control of a vehicle while under the influence, to also include references to a substantially equivalent municipal ordinance.
- ⌘ Removes references to "special" license plates in favor of the term "restricted" license plates.

# House Bill 163 continued

- ✍ Requires that, when a person with a temporary instruction permit and identification card drives a motor vehicle, the eligible adult or person over 21 years of age who occupies the seat beside the person driving the motor vehicle not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine.
  
- ✍ Defines “continuous alcohol monitoring” and specifically authorizes it as a community control sanction in criminal and delinquent child cases, either as an independent sanction or in conjunction with electronic monitoring as a sanction.
  
- ✍ The bill was amended on the Senate floor to address an Ohio Supreme Court opinion that said a defendant must know he or she is committing a drug offense near a Drug-Free School Zone in order to receive an increased sentence. Under the bill's amendment, a defendant no longer must have this knowledge in order to receive an increased sentence.