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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

S.B. 26
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 26's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. Manning

Local Impact Statement Procedure Required: No

Maggie West, Senior Budget Analyst

Highlights

- The bill may impact a relatively small number of OVI cases by reducing the number of cases for local criminal justice systems to adjudicate, while potentially increasing the costs and amount of time it takes to adjudicate others. The net effect is not expected to exceed minimal for any given local criminal justice system.
- For every administrative license suspension that no longer occurs under the bill, there will be a reduction in corresponding reinstatement fees. The fee to reinstate an administrative license suspension is \$475, which is credited to a variety of state funds, ranging from \$20 to \$112.50 depending on the fund. The potential loss in revenue for these funds would not be realized until some future point after the bill's effective date, but would likely be minimal annually for each of the funds impacted.

Detailed Analysis

The bill modifies the law for both vehicles and watercraft as it relates to the use of marijuana and operating a vehicle under the influence (OVI). Specifically, the bill removes the existing per se prohibited concentration limits for marijuana or marijuana metabolites that are used for the purpose of determining an automatic violation of the OVI law and replaces them with an evidentiary standard that may be used to infer that a motor vehicle or watercraft operator is under the influence of marijuana. The bill also addresses the admissibility of certain types of evidence related to chemical testing as it pertains to the OVI law.

Based on conversations with statewide associations that represent local law enforcement, the number of OVI cases being processed that involve solely marijuana is relatively low. This is because it is not uncommon for a person who is charged with OVI to have multiple

substances in their system, including marijuana metabolites. As a result, it is unlikely that the bill will impact a significant number of cases.

Local criminal justice systems

By replacing the existing per se limits for marijuana and marijuana metabolites with an evidentiary standard, the bill may result in fewer OVI cases for courts to adjudicate. However, those cases that are prosecuted under the bill may be more costly and time consuming to adjudicate, especially if they go to trial and additional resources, such as expert witnesses, are utilized to establish impairment. Under existing law, if a person's marijuana or marijuana metabolite concentration limit is at or above the per se limit, that person is automatically considered to be in violation of the law. No other additional evidence of marijuana impairment is necessary. The net effect of fewer cases filed or cases that may take longer and cost more to adjudicate is not expected to exceed minimal for any given local criminal justice system.

The bill is unlikely to have a discernible effect on law enforcement, as it does not change existing practices and procedures regarding OVI enforcement.

Penalties

Criminal penalties

OVI violations are generally first degree misdemeanors subject to not more than 180 days in a local jail, a fine of \$375 to \$1,075, and a mandatory one to three-year driver's license suspension. OVI violations also require a three-day mandatory jail term or completion of a driver's intervention program in addition to any other jail term imposed. The offense level and penalties increase based on the circumstances present.

In the event that an individual is not convicted under the bill and they otherwise would have been under existing law, the jurisdiction in which the offense occurred may experience a savings in incarceration costs for that individual. The magnitude of any savings experienced would depend on the jail term that would otherwise have been imposed, which would have presumably been at least three days. There would also be a corresponding loss in fine revenue, which is distributed pursuant to statutory formula¹ for specified purposes to various local entities where the offense occurred, as well as the state Indigent Defense Support Fund (Fund 5DY0).

Administrative license suspension

Under continuing law, an automatic administrative driver's license suspension is imposed from the time of the alleged OVI until the court hearing to determine the operator's guilt. By removing the per se marijuana limits from the OVI law, the bill, in certain circumstances, also removes the administrative driver's license suspension. If fewer administrative driver's license suspensions are imposed, the Bureau of Motor Vehicles may experience a minimal administrative cost savings and a corresponding decrease in reinstatement fee revenue. The fee to reinstate an administrative license suspension is \$475, which is credited to the state treasury as follows:

- \$112.50 to the Statewide Treatment and Prevention Fund (Fund 4750);

¹ R.C. 4511.19(G)(5).

- \$75 to the Victims of Crime/Reparations Fund (Fund 4020);
- \$75 to the Services for Rehabilitation Fund (Fund 4L10);
- \$75 to the Drug Abuse Resistance Education Programs Fund (Fund 4L60);
- \$50 to the Indigent Drivers Interlock and Alcohol Monitoring Fund (Fund 5FF0);
- \$37.50 to the Indigent Drivers Alcohol Treatment Fund (Fund 7049);
- \$30 to the Public Safety – Highway Purposes Fund (Fund 5TM0); and
- \$20 to the Trauma & Emergency Medical Services Grants Fund (Fund 83M0).