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Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Bird

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SUMMARY

Out-of-state driver's license holder without legal presence

- Prohibits a person without legal presence in the U.S. from driving in Ohio with an out-of-state driver's license.
- Makes the offense a first degree misdemeanor.
- Requires a law enforcement officer who issues a ticket, citation, or summons for the above offense to send a copy of it to the U.S. Department of Homeland Security's Immigration and Customs Enforcement section.

Accidents involving a driver without legal presence

- Requires the Director of Public Safety to submit a certified copy of any accident report to the Ohio Attorney General that involves a driver with an out-of-state driver's license who does not have legal presence in the U.S.
- Requires the Attorney General to then bring a cause of action against the state that issued that driver's license, under certain circumstances.

DETAILED ANALYSIS

Out-of-state driver's license holder without legal presence

The bill prohibits a person who does not have legal presence in the U.S. from driving in Ohio with an out-of-state driver's license, even if that driver's license is otherwise valid within the issuing state. The bill makes the offense a first degree misdemeanor and strict liability offense, similar to the penalty for driving without a valid driver's license.[1] Additionally, a law

[1] R.C. 4507.04(B) and (C)(1) and (2); R.C. 4507.30, not in the bill.

enforcement officer who issues a ticket, citation, or summons for the violation must send a copy of it to the U.S. Department of Homeland Security's Immigration and Customs Enforcement (ICE) section.[2]

Under current law, a non-Ohio resident (e.g., a Pennsylvania resident) who holds a valid out-of-state license may operate a motor vehicle in Ohio without obtaining an Ohio driver's license. The driver may need to provide proof that he or she is allowed to operate the vehicle and proof of identity. However, each state generally recognizes the validity of the driver's licenses issued by the other states.[3]

While Ohio does not allow a person without legal presence in the U.S. to obtain an Ohio driver's license, approximately 19 states plus Washington, D.C. allow such individuals to obtain driver's licenses.[4] Each state establishes its own conditions pertaining to obtaining and retaining a standard driver's license and those conditions may vary between states. However, for the sake of unity and ease of travel between the states, the U.S. Constitution's Privileges and Immunities Clause and the Full Faith and Credit Clause generally require each state to acknowledge and accept a valid driver's license issued by another state.[5] It is unclear, however, if the bill were challenged, whether a court would determine that states also are required to acknowledge a driver's license issued to a person without legal presence in the U.S.

Accidents involving a driver without legal presence

Under continuing law, a law enforcement agency (township, county, municipal corporation, or other political subdivision) must send the Director of Public Safety a written report detailing any accident investigation involving a fatality, personal injury, or property damage greater than $1,000. Under the bill, the Director must submit a certified copy of the accident report to the Ohio Attorney General if the report indicates that one of the drivers involved in the accident was issued a ticket, citation, or summons for operating a motor vehicle in Ohio with an out-of-state license but without legal presence in the U.S.[6]

The bill also requires the Attorney General, in certain circumstances in which the party-at-fault in a motor vehicle accident is a person with a valid out-of-state driver's license, but who does not have legal presence in the U.S., to sue the state that issued the driver's license. Specifically, it requires the Attorney General to bring the cause of action against the other state if all the following apply:

1. The Attorney General receives a certified copy of an accident report from the Director of Public Safety that includes information that one of the motor vehicle operators was cited

[2] R.C. 4507.04(C)(3).

[3] R.C. 4507.04(A).

[4] States Offering Driver's Licenses to Immigrants. National Conference of State Legislatures. Updated, March 13, 2023.

[5] U.S. Constitution, Article IV, Section 1 and 2; *Franchise Tax Bd. v. Hyatt*, 538 U.S. 488 (2003).

[6] R.C. 5502.11(A) and (B).

for driving in Ohio with an out-of-state license while not having legal presence in the U.S. (the bill's new offense described above);

2. The nonresident is convicted of or pleads guilty to driving in Ohio with an out-of-state license while not having legal presence in the U.S.;
3. The motor vehicle accident resulted in bodily injury, death, or property damage of at least $75,000; and
4. The nonresident was determined to be at fault for the motor vehicle accident.[7]

The Attorney General must bring the cause of action in the U.S. Supreme Court, since it has original jurisdiction over controversies between states.[8] It is unclear, however, if the bill were challenged, whether the U.S. Supreme Court would hear the case when the controversy between Ohio and the other state relates to the issuance of a driver's license by the other state. While one state may sue another for a violation of federal law, it may not sue another state for a violation of the first state's state law. The 10th Amendment to the U.S. Constitution specifies that the "powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Included among the powers reserved to the states are the terms and conditions for issuance of driver's licenses.

HISTORY

Action	Date
Introduced	03-03-26

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[7] R.C. 5502.11(C).

[8] U.S. Const., Art. III, Sec. 2.