



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 27
(1_134_0319-1)
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 27's Bill Analysis](#)

Version: In House Criminal Justice

Primary Sponsor: Rep. Patton

Local Impact Statement Procedure Required: No

Maggie West, Senior Budget Analyst

Highlights

- There may be a minimal at most annual gain in fine revenue collected from drivers cited for failure to secure a load on a vehicle by the Ohio State Highway Patrol and credited to the state's existing Security, Investigations, and Policing Fund (Fund 8400).
- Due to the increased penalty, there may be some additional costs incurred by state and local law enforcement, if an officer who issued the citation has to appear in court for a traffic violation charge that otherwise might not have been contested under current law.
- There may be (1) a minimal annual increase for counties and municipalities to adjudicate, prosecute, and sanction penalty-enhanced violations and (2) a minimal annual gain in fine, fee, and court cost revenue that is distributed pursuant to state law between the state and political subdivisions.

Detailed Analysis

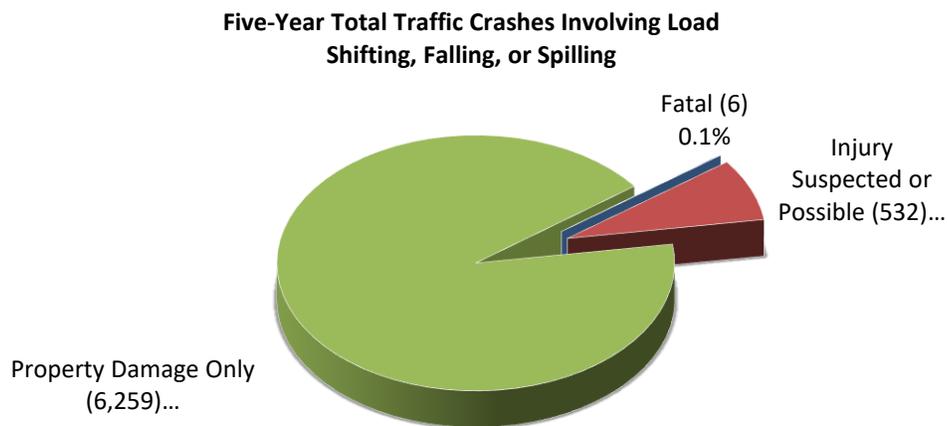
The bill increases the criminal penalty for failing to secure a load on a vehicle. Under existing law, failure to secure a load on a vehicle is a strict liability minor misdemeanor offense subject to a fine of up to \$150. The bill generally retains a violation as a minor misdemeanor, meaning a person convicted of the violation is not subject to a jail term, but rephrases the prohibitions to specify that the culpable mental state for failure to secure or properly cover a load on a vehicle is negligence and increases the fine for a violation to \$500.

Under the bill, if failing to secure a load on a vehicle results in "physical harm to a person or property," a violation is elevated to a third degree misdemeanor, which, under current law, generally carries a fine of up to \$500, a jail term of up to 60 days, or both. However, the bill requires the court impose a \$2,500 fine in such circumstances in addition to any other penalty that may be imposed for a third degree misdemeanor.

The bill excludes from the offense vehicles dropping substances to clean or maintain the roadway, farm vehicles, garbage trucks, and commercial motor vehicles (as defined in federal law). The result is that slightly fewer drivers may be charged and sanctioned for failure to secure or cover a load on a vehicle that otherwise may have been the case under current law.

Statewide traffic crashes involving unsecured loads

The following chart summarizes statistics for the number of traffic crashes involving load shifting, falling, or spilling by crash category aggregated for the entire five-year period from calendar years (CYs) 2015 through 2019. There was no significant year-over-year variation. Of the 6,797 total crashes over that period, the majority involved “property damage only” (6,259, or 92.1%). The number of traffic crashes resulting in the issuance of a citation for failure to secure a load on a moving vehicle is unknown.



Ohio State Highway Patrol citation activity

For CYs 2015 through 2019, the Ohio State Highway Patrol, which has statewide enforcement authority, issued 2,791 citations for failure to secure a load on a vehicle, an average of 558 citations per year. The number involving a fatality, injury, or property damage is unknown. The number of citations issued reflects only those issued by the Patrol and does not account for any citations that may have been issued by any of the state’s 900 local law enforcement agencies.¹ The citation activity for those agencies is not readily available.

Enforcement and adjudication

In the case of a minor misdemeanor, a law enforcement officer generally does not arrest a person, but instead issues a citation. In lieu of making a court appearance, that person either in person, by mail, or online where available, can waive their right to contest the offense before the court or jury, and pay the total amount of fines, fees, and court costs to the clerk of the court. Minor misdemeanor traffic offenses are frequently resolved in this manner. However, some individuals cited under the bill may be more likely to contest a citation given the increased fine

¹ https://www.ocjs.ohio.gov/ler/thejob_agencies.html.

and potential jail term. It may take more time and resources for state and local law enforcement and county, municipal, and mayor's courts to dispose of these cases.

Under Ohio's existing traffic law, failure to secure or properly cover a load on a vehicle is a strict liability offense. Strict liability exists when a defendant is liable for committing an action, regardless of what that person's intent or mental state was when committing the action. The bill specifies that the culpable mental state for failure to secure or properly cover a load on a vehicle is negligence. This specification may require a prosecutor to expend additional time and effort to prove that a defendant was negligent.

Sanctioning costs

For those instances where the failure to secure a load on a vehicle causes physical harm to a person or property, however, the bill could result in some number of additional cases for county, municipal, and mayor's courts to adjudicate, as they may not be resolved by the clerk of courts or local prosecutor prior to a trial. It is also possible that a relatively small number of individuals could end up serving a period of incarceration at a locally operated jail when they otherwise may not have under existing law. Any related increase in incarceration expenses will likely be minimal for any given jurisdiction.

Fines, fees, and court costs

Because of the bill's increased fine, the state and political subdivisions may experience an increase in their respective portion of fines, fees, and court costs collected for violations of failing to secure a load on a vehicle. The magnitude of any increase experienced would depend upon the number of citations issued and whether those citations involved physical harm to a person or property. The following table shows the fines under H.B. 27, fees, and related court costs imposed for failing to secure a load on a vehicle, as well as the recipients of those amounts.

| H.B. 27 Fine, Fees, and Court Costs for Failure to Secure a Load on a Vehicle | | |
|-------------------------------------------------------------------------------|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Financial Penalty Component | Amount Paid by Violator | Recipient of Amount |
| Fine | \$500; \$2,500 if physical harm to a person or property | <ul style="list-style-type: none"> ▪ Retained by county if violation of state law ▪ Retained by municipality if violation of local ordinance ▪ Forwarded for deposit into the state Security, Investigations, and Policing Fund (Fund 8400) if violator is cited by the Ohio State Highway Patrol |
| Local court costs and fees | Varies by local jurisdiction | Generally retained by the county or municipality with subject matter jurisdiction over traffic violations |
| State court costs for a moving violation* | \$37.50 | Deposited in state treasury as follows: <ul style="list-style-type: none"> ▪ \$25 to the Indigent Defense Support Fund (Fund 5DY0) ▪ \$9 to the Victims of Crime/Reparations Fund (Fund 4020) ▪ \$3.40 to the Drug Law Enforcement Fund (Fund 5ET0) ▪ 10¢ to the Justice Program Services Fund (Fund 4P60) |

*An additional \$1.50 goes to the county or municipal indigent drivers' alcohol treatment fund under control of the court.

Synopsis of Fiscal Effect Changes

The differences in the fiscal effects between the As Introduced and substitute (I_134_0319-1) versions of H.B. 27 are described below.

- The substitute bill specifies that the culpable mental state for failure to secure or properly cover a load on a vehicle is negligence. Current law applies strict liability, which means culpability is not required for a person to be guilty of the offense. Thus, under the substitute bill, a prosecutor may have to expend additional time and effort to prove that a defendant was negligent.
- The substitute bill excludes the operator of a commercial motor vehicle (as defined in federal law) from the prohibitions against failing to properly secure or cover a load on a motor vehicle. The result is that slightly fewer drivers may be charged and sanctioned for failure to secure or cover a load on a vehicle that otherwise may have been the case under the As Introduced version.