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135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Plummer and White

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### SUMMARY

#### Fleeing law enforcement

- Increases the penalty for willfully eluding or fleeing a police officer using a motor vehicle from a first degree misdemeanor to a fourth degree felony.
- Relatedly, increases the penalty from a fourth degree felony to a third degree felony if the flight is immediately after the commission of a felony.

#### Policy for pursuit

- Alters the existing requirement that each law enforcement entity adopt a policy for pursuit of a fleeing motor vehicle by requiring the policy to be written and to include specified minimum terms, including requirements for when and how such pursuits should occur.

#### Hooning

- Prohibits any person from participating in hooning (operating a motor vehicle in a reckless or dangerous manner in order to provoke a reaction from spectators) on a public road, street, or highway, or on private property open to the public.
- Imposes a first degree misdemeanor, a class five (six months to three years) driver's license suspension, and possible seizure and forfeiture of the motor vehicle on offenders who are guilty of hooning.
- Prohibits any person from purposely being a spectator at a hooning event, and imposes fines up to \$1,000 for doing so.
- Exempts authorized motor vehicle races and motor vehicle shows from the hooning offenses.

## DETAILED ANALYSIS

### Fleeing law enforcement

The bill increases the penalties for willfully eluding or fleeing a police officer using a motor vehicle. Under current law, the offense is a first degree misdemeanor that increases to a fourth degree felony if the jury or judge (as trier of fact) finds beyond a reasonable doubt that the flight was immediately after the commission of a felony. The bill increases those penalties to a fourth degree felony for fleeing and a third degree felony if the person is fleeing after immediately committing another felony.<sup>1</sup> The implications of that increase are listed in the tables below.

Penalties for fleeing police officer with motor vehicle <sup>2</sup>		
	Current law	Under the bill
<b>Degree of offense</b>	1 <sup>st</sup> degree misdemeanor	4 <sup>th</sup> degree felony
<b>Financial sanctions</b>	Up to \$1,000	Up to \$5,000
<b>Confinement</b>	Jail term: up to 180 days	Prison term: between 6 to 18 months
<b>Driver's license suspension</b>	Class 5 suspension (6 months to 3 years)	Class 2 suspension (3 years to life)

Penalties for fleeing police officer with motor vehicle after committing felony <sup>3</sup>		
	Current law	Under the bill
<b>Degree of offense</b>	4 <sup>th</sup> degree felony	3 <sup>rd</sup> degree felony
<b>Financial sanctions</b>	Up to \$5,000	Up to \$10,000
<b>Confinement</b>	Prison term: between 6 to 18 months	Prison term: between 9 to 36 months
<b>Driver's license suspension</b>	Class 2 suspension (3 years to life)	Same as current law

<sup>1</sup> R.C. 2921.331(C)(3) and (4).

<sup>2</sup> R.C. 2929.14, 2929.18, 2929.24, 2929.28, and 4510.02, not in the bill.

<sup>3</sup> R.C. 2929.14, 2929.18, and 4510.02, not in the bill.

## Policy for pursuit

The bill alters the existing requirement that each law enforcement entity adopt a policy for the pursuit of a motor vehicle. Specifically, the bill requires the policies to be adopted in written form within 120 days of the bill's effective date. It also sets forth the following minimum requirements for the policies:

1. A definition of a motor vehicle pursuit;
2. A definition of the criteria for initiating a motor vehicle pursuit;
3. A requirement that the officers consider all of the circumstances before initiating the pursuit, including the seriousness of the alleged offense and the current weather and road conditions;
4. A prohibition against pursuing a suspect known to the officers unless the suspect's escape poses a significant threat of death or serious physical injury to the officers or to others;
5. A description of the unit initiating the pursuit and any secondary unit's responsibilities;
6. A specification as to the roles and restrictions for both marked and unmarked police vehicles involved in the pursuit;
7. Communication protocols;
8. The supervisor's responsibilities;
9. Who has the authority to terminate the pursuit and when;
10. Provisions addressing the engagement of inter-jurisdictional and intra-jurisdictional motor vehicle pursuits involving personnel from the entity that starts the pursuit and any other jurisdictions that become involved;
11. Training requirements, especially pertaining to termination tactics, such as PIT maneuvers, tire deflation devices, and road blocks;
12. Requirements for written reports and administrative review of each pursuit; and
13. Requirements for documented annual analysis of the pursuit reports.

If a law enforcement entity already has in effect a motor vehicle pursuit policy, and it includes everything above, the entity does not need to adopt a new policy while the old one remains in use. However, any entity that does not have a comprehensive policy that includes everything above must adopt such a policy, but may retain its old one until it adopts the new one (within 120 days).

## Hooning

The bill creates two new offenses: participating in and being a spectator of hooning. Hooning is operating a motor vehicle in a reckless or dangerous manner in order to provoke a reaction from spectators, and can include speeding, street racing, performing doughnuts, burnouts, drifting, rapid acceleration, squealing tires, or engine revving, or allowing passengers to ride partially or fully outside of the motor vehicle.

As indicated above, the bill prohibits a person from participating, as either the operator or passenger of the motor vehicle, in hooning on any public road, street, or highway, or on any private property that is open to the public (e.g., a grocery store parking lot). A violation of the offense is a first degree misdemeanor. In addition to any other statutory penalties, the court must impose a class five driver's license suspension (six months to three years) on the offender. If the offender does not have proof of financial responsibility (i.e., auto insurance), the court may order the offender to cover the economic losses arising from an accident or collision that was the direct and proximate result of the offense. Finally, the motor vehicle used in the offense may be subject to seizure and forfeiture under the current Forfeiture Law.<sup>4</sup>

The bill also prohibits being a spectator at a hooning event. Violation of the offense, referred to as hooning complicity, is an unclassified misdemeanor. The court may impose a fine of up to \$1,000 on the offender. To be considered a spectator, the person must be present at a location for the purpose of watching another individual hooning or assisting in the logistics of the hooning event. Thus, a person who is at the wrong place at the wrong time is not a spectator for purposes of the bill's prohibition or penalties.<sup>5</sup>

Both hooning and hooning complicity are strict liability offenses.<sup>6</sup>

## **Exceptions**

The bill exempts participants and spectators at authorized motor vehicle races and motor vehicle shows from its prohibitions related to hooning. In order to qualify for the exemption, a race or show on public property must be sponsored by a recognized, responsible organization; authorized by the applicable political subdivision with jurisdiction over the location; and the participant must be operating or displaying the motor vehicle within the parameters of the authorization for the race or show. Similarly, a race or show on private property must be sponsored by a recognized, responsible organization; authorized by the written consent of the owner or operator (or the owner or operator's agent) of the private property; and the participant must be operating or displaying the motor vehicle within the parameters of the authorization for the race or show.<sup>7</sup>

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<sup>4</sup> R.C. 4511.253(A) to (C); conforming change in R.C. 2981.02.

<sup>5</sup> R.C. 4511.253(A)(4) and 4511.254.

<sup>6</sup> R.C. 4511.253(F) and 4511.254(F).

<sup>7</sup> R.C. 4511.253(D) and (E) and 4511.254(D) and (E).

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## HISTORY

Action	Date
Introduced	02-16-23

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