



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 37  
135<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 37's Bill Analysis](#)

**Version:** As Introduced

**Primary Sponsors:** Reps. Johnson and K. Miller

**Local Impact Statement Procedure Required:** No

Maggie West, Senior Budget Analyst

### Highlights

- The Ohio Department of Rehabilitation and Correction will likely experience an increase in costs to incarcerate and/or supervise certain OVI offenders who will serve longer mandatory minimum terms under the bill. The magnitude of any increase will depend on the number of offenders who serve longer sentences under the bill, the additional length of the term, and the marginal cost per offender in each additional year of that term.
- The state may experience an increase in revenue due to the bill's increased OVI fines. The Defense Support Fund (Fund 5DY0) receives a portion of OVI fines and the Security, Investigations, and Policing Fund (Fund 8400) receives fines where the violator was cited by the Ohio State Highway Patrol. The magnitude of any increase will depend on the number of OVI fines imposed and the amount of any fines collected resulting from a person apprehended or arrested by the Patrol, respectively.
- Local entities may experience an increase in OVI fine revenue, which is distributed pursuant to statutory formula for specified purposes to various local entities where the offense occurred. The magnitude of any increase will depend on the number of OVI convictions in a given jurisdiction as well as the amount of fine revenue that is ultimately collected.

### Detailed Analysis

The bill increases the financial penalties and possible prison term for aggravated vehicular homicide and other OVI-related vehicular homicides under specified circumstances and also increases the financial penalties for OVI.

## **Mandatory minimum prison term**

The bill increases the mandatory minimum prison term for OVI-related aggravated vehicular homicide when the offender has been convicted of or pleaded guilty to a prior OVI offense and certain other OVI-related vehicular homicide offenses from between ten to 15 years to between 15 to 20 years. The bill also modifies existing law related to the lookback periods for OVI-related vehicular homicide offenses. The lookback threshold is reduced for prior OVI offenses within the previous ten-year period from three convictions to one conviction for which a mandatory minimum prison term is imposed. The same new threshold (three to one conviction) is applicable for prior OVI-related vehicular assault, vehicular homicide, or involuntary manslaughter offenses but the bill eliminates the ten-year lookback period that currently exists, meaning that the mandatory minimum prison term applies if the offender had one prior conviction, regardless of when the offense occurred.

As a result of the bill's changes, certain OVI offenders may either receive a mandatory minimum prison term when they otherwise would not have due to the reduced lookback threshold for prior offenses, or may receive a mandatory minimum prison term that is up to five years longer than the current mandatory minimum prison term. In calendar year 2021, there were a total of 31 convictions involving noncommercial motor vehicles statewide for OVI-related aggravated vehicular homicide (13), OVI-related vehicular homicide (15), and OVI-related involuntary manslaughter (3).<sup>1</sup> Of those convictions, it is unclear how many offenders had a prior OVI conviction and would have been impacted by the bill's mandatory minimum prison term provisions had the bill been in effect at the time.

In 2022, the marginal cost for the Ohio Department of Rehabilitation and Correction (ODRC) to house an offender was \$11.31 per day.<sup>2</sup> Marginal costs are those that increase or decrease directly on a per-person basis with changes in prison population. Such costs include medical care, food service, clothing and bedding (for inmates), and mental health services. Using the 2022 daily marginal cost, it costs ODRC \$4,128.15 (\$11.31 x 365) to house an additional individual for one year. This means that ODRC would incur an additional \$20,640.75 (\$4,128.15 x 5) to house an OVI offender sentenced to the mandatory minimum prison term under the bill, than would be the case had the offender been sentenced to the mandatory minimum prison term under existing law.

The actual increase in costs for ODRC will depend on the number of offenders who ultimately serve longer sentences under the bill than they otherwise would have under existing law, the additional length of the term, and the marginal cost per offender in each additional year of that term.

## **Fine for OVI-related aggravated vehicular homicide**

The bill imposes a fine of not more than \$25,000 in addition to any other sanctions imposed for OVI-related aggravated vehicular homicide. The bill does not specify how this fine is

---

<sup>1</sup> There were no OVI-related aggravated vehicular homicide, vehicular homicide, or involuntary manslaughter convictions involving commercial vehicles in 2021.

<sup>2</sup> See Ohio Department of Rehabilitation and Correction's 2022 Annual Report, which is available on the Department's website via key word search "Annual Report": [drc.ohio.gov](https://drc.ohio.gov).

to be distributed. Presumably that means it would be treated and distributed in the same manner as other fine revenue, which would either be retained by the county or municipality in which the offense occurred, or be forwarded for deposit into the state Security, Investigations, and Policing Fund (Fund 8400) if the violator was cited by the Ohio State Highway Patrol. The magnitude of any increase will depend on the number of OVI convictions in a given jurisdiction as well as the amount of fine revenue that is ultimately collected.

## **OVI financial penalty increase**

The bill increases the financial penalties for OVIs as follows:

- First offense: \$750 to \$1,250 (from \$375 to \$1,075);
- Second offense (within ten years): \$1,200 to \$2,000 (from \$525 to \$1,625);
- Third offense (within ten years): \$2,000 to \$2,750 (from \$850 to \$2,750);
- Fourth or fifth offense (within ten years); sixth offense (within 20 years); prior OVI felony: \$2,300 to \$10,500 (from \$1,350 to \$10,500).

As a result, local entities may experience an increase in OVI fine revenue, which is distributed pursuant to statutory formula for specified purposes to various local entities where the offense occurred, as well as the state Indigent Defense Support Fund (Fund 5DY0).<sup>3</sup> Fund 5DY0 is used, in concert with other money appropriated for use by the Public Defender Commission, to reimburse counties for their costs in providing legal counsel to indigent persons in criminal and juvenile matters

Since the bill does not alter the statutory formula for OVI fine distribution, any increase in revenue collected would either be retained by the county or municipality in which the offense occurred, or would be forwarded for deposit into the state Security, Investigations, and Policing Fund (Fund 8400) if the violator was cited by the Ohio State Highway Patrol.<sup>4</sup> The magnitude of any increase will depend on the number of OVI convictions in a given jurisdiction as well as the amount of fine revenue that is ultimately collected.

## **Court warning to OVI offenders**

The bill requires a court to warn anyone who pleads guilty to or who is convicted of an OVI offense of the penalties for an OVI-related aggravated vehicular homicide. The bill does not specify how the “warning” is to be given, thus giving courts some flexibility in determining how they want to do so. That said, the impact of the bill’s “warning” provision is likely to be minimal. For context, there were a total of 26,215 noncommercial convictions and 33 commercial convictions for OVI statewide in calendar year 2021.

FNHB0037IN-135/zg

---

<sup>3</sup> R.C. 4511.19(G)(5).

<sup>4</sup> Fund 8400 is used to provide security for the Governor, other officials and dignitaries, the capitol square, and other state property; undertake major criminal investigations that involve state property interests; provide traffic control and security for the Ohio Expositions Commission on a full-time, year-round basis; and perform nonhighway-related duties of the State Highway Patrol at the Ohio State Fair.