



H.B. 461

126th General Assembly
(As Introduced)

Reps. Wolpert, Yuko, Ujvagi, Otterman, Healy

BILL SUMMARY

- Increases the prison term for aggravated vehicular homicide to a mandatory term of 10, 11, 12, 13, 14, or 15 years when the offender has three or more prior OVI convictions or guilty pleas within the previous six years, or two or more prior felony OVI convictions.

CONTENT AND OPERATION

Aggravated vehicular homicide

Under existing law, unchanged by the bill, one of the ways in which a person commits the offense of aggravated vehicular homicide is if the person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, causes the death of another or the unlawful termination of another's pregnancy as the proximate result of committing a violation of R.C. 4511.19(A) ("state OVI"), 1547.11(A) ("state watercraft OVI"), 4561.15(A)(3) ("state aircraft OVI"), or a violation of a municipal ordinance that is substantially equivalent to one of these violations (R.C. 2903.06(A)(1)). For purposes of this analysis this offense will be termed "OVI-related aggravated vehicular homicide." (See **COMMENT** for an explanation of the other manners in which a person commits aggravated vehicular homicide.)

The current penalty for OVI-related aggravated vehicular homicide

Under current law, OVI-related aggravated vehicular homicide is generally a felony of the second degree. However, OVI-related aggravated vehicular homicide is a felony of the first degree (a possible prison term of 3, 4, 5, 6, 7, 8, 9, or 10 years) if any of the following applies (R.C. 2903.06(B)(2)(a)):

(1) At the time of the offense, the offender was driving under a suspension imposed under R.C. Chapter 4510. or any other provision of the Revised Code.

(2) The offender previously has been convicted of or pleaded guilty to aggravated vehicular homicide, vehicular homicide, or vehicular manslaughter.

(3) The offender previously has been convicted of or pleaded guilty to any traffic-related homicide, manslaughter, or assault offense.

(4) The offender previously has been convicted of or pleaded guilty to three or more prior state OVI violations or violations of a substantially equivalent municipal ordinance within the previous six years;

(5) The offender previously has been convicted of or pleaded guilty to three or more prior state watercraft OVI violations or violations of a substantially equivalent municipal ordinance within the previous six years;

(6) The offender previously has been convicted of or pleaded guilty to three or more prior state aircraft OVI violations, or violations of a substantially equivalent municipal ordinance within the previous six years;

(7) The offender previously has been convicted of or pleaded guilty to three or more violations of any combination of the offenses listed in paragraph (4), (5), or (6), above;

(8) The offender previously has been convicted of or pleaded guilty to a second or subsequent felony state OVI violations.

A court must impose a mandatory prison term upon an offender who is convicted of or pleads guilty to OVI-related aggravated vehicular homicide. Also, in addition to any other sanction imposed upon an offender for aggravated vehicular homicide, the court must impose a class one suspension (a definite period of life) of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege. (R.C. 2903.06(B)(2)(d) and (E).)

The bill

The bill revises the penalty for OVI-related aggravated vehicular homicide in certain circumstances. It requires that, if an offender is convicted of or pleads guilty to OVI-related aggravated vehicular homicide, the offense is a felony of the first degree (as under existing law) and the court must impose a mandatory prison term of 10, 11, 12, 13, 14, or 15 years upon the offender (added by the bill) if any of the following circumstances apply (R.C. 2903.06(B)(2)(c), 2929.14(L), and 2929.142, with conforming changes in R.C. 2929.01(Y) and (GG), 2929.13(F), 2929.14(A) to (C), (E)(5) and (H), 2929.18(A)(5)(a)(ii) and (C)(1), 2929.19(B)(2), and 2953.08(A)(1)):

(1) The offender previously has been convicted of or pleaded guilty to three or more prior state OVI violations or violations of a substantially equivalent municipal ordinance within the previous six years;

(2) The offender previously has been convicted of or pleaded guilty to three or more prior state watercraft OVI violations or violations of a substantially equivalent municipal ordinance within the previous six years;

(3) The offender previously has been convicted of or pleaded guilty to three or more prior state aircraft OVI violations, or violations of a substantially equivalent municipal ordinance within the previous six years;

(4) The offender previously has been convicted of or pleaded guilty to three or more violations of any combination of the offenses listed in paragraph (1), (2), or (3), above.

(5) The offender previously has been convicted of or pleaded guilty to a second or subsequent felony state OVI violation.

The existing license suspension requirement for OVI-related aggravated vehicular homicide convictions remains applicable to an offender convicted of the offense in these circumstances (R.C. 2903.06(B)(2)(d)).

COMMENT

Aggravated vehicular homicide also is committed if a person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, causes the death of another or the unlawful termination of another's pregnancy in one of the following ways (R.C. 2903.06(A)(2)):

(1) Recklessly;

(2) As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a reckless operation offense, provided that this provision only applies if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the reckless operation offense in the construction zone and specified signs are present in the construction zone warning of the penalty.

A violation of either of these prohibitions generally is a felony of the third degree, but the violation is a felony of the second degree if the offender, at the time of the offense, was driving under a suspension or previously has been

convicted of or pleaded guilty to aggravated vehicular homicide, vehicular homicide, vehicular manslaughter or any traffic-related homicide, manslaughter, or assault offense (R.C. 2903.06(B)(3)).

The court must impose a mandatory prison term if the offender previously was convicted of or pleaded guilty to a violation of R.C. 2903.06 or 2903.08 or if the offender was driving at the time of the offense under suspension, and must impose a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege (R.C. 2903.06(B)(3) and (E)).

HISTORY

ACTION	DATE
Introduced	12-29-05

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