



Ohio Legislative Service Commission

Bill Analysis

Aida S. Montano

H.B. 338

128th General Assembly
(As Introduced)

Reps. Book and Uecker, Evans, Domenick, Harwood, Okey, Bolon

BILL SUMMARY

- Confers on any court whose jurisdiction is invoked regarding a driver's license matter, other than a matter involving a commercial driver's license, concurrent jurisdiction to adjudicate all issues and appeals regarding that driver's license matter and specifies the procedure for a holder of a driver's license to invoke the court's jurisdiction.
- Provides that if another court has obtained jurisdiction over the driver's license suspensions involving the same driver's license holder, that jurisdiction may not be divested by an action filed under the bill unless that court transfers its jurisdiction.
- Grants the court whose jurisdiction is invoked discretionary authority to issue a stay of any suspension pending resolution of the matters before the court and to order the Bureau of Motor Vehicles to renew the holder's driver's license pending resolution of the matters or in its final judgment if the license is not more than six months expired prior to the date of the renewal application.
- Generally provides that if jurisdiction is invoked in a court of common pleas or county court, the county prosecuting attorney must represent the Registrar in the case, and that if jurisdiction is invoked in a municipal court, the Registrar generally must be represented by the city director of law, village solicitor, or similar chief legal officer.
- Declares that the intent of the bill is to allow all issues concerning driver's licenses to be litigated in a single forum, not to eliminate any forum venue in existence on the bill's effective date.

CONTENT AND OPERATION

Court jurisdiction to adjudicate all issues and appeals involving driver's license matter

The bill provides that, notwithstanding any provision of the Revised Code to the contrary, any court whose jurisdiction has been invoked under R.C. Chapter 4510. (Driver's License Suspension, Cancellation, and Revocation Law) or any other chapter of the Revised Code regarding a driver's license matter, other than a matter involving a commercial driver's license, is conferred concurrent jurisdiction to adjudicate all issues and appeals regarding that driver's license matter, including issues of validity, suspension, and, with regard to any suspension imposed by the Bureau of Motor Vehicles, driving privileges. Nothing in the bill's provisions may be construed as applying to any issue involving a commercial driver's license, except that a court may adjudicate an issue that does not relate to a commercial driver's license but involves a holder of a commercial driver's license so long as the court does not alter the status of that holder's commercial driver's license. In the event that another court has obtained jurisdiction over one or more driver's license suspensions imposed by the Bureau involving the same driver's license holder, that jurisdiction may not be divested by an action filed under the bill's provisions unless that court transfers its jurisdiction over that holder's driver's license issue by issuance of a court order.

The court's jurisdiction over a particular driver's license issue may be invoked by a motion, appeal, or petition filed by a holder of a driver's license. Any such motion, appeal, or petition must state the issue with respect to which the court's jurisdiction is invoked. When a court's jurisdiction over a driver's license issue is properly invoked, that court must adjudicate all issues and appeals brought before the court regarding that issue, unless the motion, appeal, or petition is withdrawn. (R.C. 4510.73(B) and (C).)

Court's discretionary authority

The bill provides that any court whose jurisdiction is invoked under its provisions has the discretionary authority to issue a stay of any suspension pending resolution of the matters before the court. This provision does not alter or eliminate any automatic stay provision provided for elsewhere in the Revised Code.

Any court whose jurisdiction is invoked under the bill, in its discretion, may order the Bureau to renew the holder's driver's license pending resolution of the matters before the court, provided that the license is not more than six months expired prior to the date of application for renewal. The court, in its discretion, also may order the Bureau to renew the holder's driver's license in its final judgment, provided that the

license is not more than six months expired prior to the date of application for renewal. (R.C. 4510.73(D) and (E).)

Representation of BMV Registrar

Under the bill, if jurisdiction is invoked in a court of common pleas or county court, the prosecuting attorney of the county in which the case is pending must represent the Registrar in the proceedings; provided, that if the driver's license holder resides in a municipal corporation that lies within the jurisdiction of a county court, the city director of law, village solicitor, or similar chief legal officer of the municipal corporation must represent the Registrar in the proceedings. In a municipal court, the Registrar must be represented in the resulting proceedings as provided in R.C. 1901.34 (see **COMMENT 1**). At the election of the Registrar, the Attorney General may enter the proceedings at any time and henceforth represent the Registrar in the case. (R.C. 4510.73(F).)

Appeal of judgment

The bill provides that either party may appeal the final judgment of the court. Any such appeal must be taken as provided in R.C. 1901.30 or 1907.30 (see **COMMENT 2**) and must conform with R.C. Chapter 2505. (Appeals Law) (R.C. 4510.73(G)).

Intent clause

The bill provides that it is the intent of R.C. 4510.73 to allow all issues concerning driver's licenses to be litigated in a single forum, not to eliminate any forum venue in existence on the effective date of the section (R.C. 4510.73(A)).

COMMENT

1. R.C. 1901.34(A), not in the bill, provides that, except as described in the following two paragraphs, the village solicitor, city director of law, or similar chief legal officer for each municipal corporation within the territory of a municipal court must prosecute all cases brought before the municipal court for criminal offenses occurring within the municipal corporation for which that person is the solicitor, director of law, or similar chief legal officer. Except as described in the following paragraph, the village solicitor, city director of law, or similar chief legal officer of the municipal corporation in which a municipal court is located must prosecute all criminal cases brought before the court arising in the unincorporated areas within the territory of the municipal court.

The Auglaize County, Brown County, Clermont County, Hocking County, Holmes County, Jackson County, Morrow County, Ottawa County, and Portage County prosecuting attorneys must prosecute in municipal court all violations of state law

arising in their respective counties. The Carroll County, Crawford County, Hamilton County, Madison County, and Wayne County prosecuting attorneys and beginning January 1, 2008, the Erie County prosecuting attorney must prosecute all violations of state law arising within the unincorporated areas of their respective counties. The Columbiana County prosecuting attorney must prosecute in the Columbiana County Municipal Court all violations of state law arising in the county, except for violations arising in the municipal corporation of East Liverpool, Liverpool Township, or St. Clair Township. The Darke County prosecuting attorney must prosecute in the Darke County Municipal Court all violations of state law arising in the county, except for violations of state law arising in the municipal corporation of Greenville and violations of state law arising in the village of Versailles. The Greene County Board of County Commissioners may provide for the prosecution of all violations of state law arising within the territorial jurisdiction of any municipal court located in Greene County.

The prosecuting attorney of any county, other than Auglaize, Brown, Clermont, Hocking, Holmes, Jackson, Morrow, Ottawa, or Portage County, may enter into an agreement with any municipal corporation in the county in which the prosecuting attorney serves pursuant to which the prosecuting attorney prosecutes all criminal cases brought before the municipal court that has territorial jurisdiction over that municipal corporation for criminal offenses occurring within the municipal corporation. The prosecuting attorney of Auglaize, Brown, Clermont, Hocking, Holmes, Jackson, Morrow, Ottawa, or Portage County may enter into an agreement with any municipal corporation in the county in which the prosecuting attorney serves pursuant to which the respective prosecuting attorney prosecutes all cases brought before the Auglaize County, Brown County, Clermont County, Hocking County, Holmes County, Jackson County, Morrow County, Ottawa County, or Portage County Municipal Court for violations of the ordinances of the municipal corporation or for criminal offenses other than violations of state law occurring within the municipal corporation. (R.C. 1901.34(B) and (D), not in the bill.)

2. R.C. 1901.30, not in the bill, provides that appeals from the municipal court may be taken to the court of appeals in accordance with the Rules of Appellate Procedure and any relevant sections of the Revised Code, including, but not limited to, R.C. Chapter 2505. to the extent it is not in conflict with those rules. When an appeal is taken from the municipal court, the clerk of the municipal court must transmit, pursuant to the Rules of Appellate Procedure, the record on appeal to the clerk of the appellate court to be filed. In all appeal proceedings relating to judgments or orders of a municipal court, the reviewing courts must take judicial notice of all rules relating to pleadings, practice, or procedure of the municipal court.

R.C. 1907.30, not in the bill, provides that appeals from the final judgments of a county court may be taken to the court of appeals for the county in which the judgment was rendered.

HISTORY

ACTION	DATE
Introduced	10-28-09

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