



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 191 of the 128th G.A.

Date: July 1, 2009

Status: As Introduced

Sponsor: Rep. Celeste

Local Impact Statement Procedure Required: Yes

Contents: Street racing

State Fiscal Highlights

STATE FUND

FY 2010 – Future Years

General Revenue Fund (GRF)

Revenues	Potential minimal annual gain in locally collected state court costs
Expenditures	Potential, likely no more than minimal, annual incarceration cost increase

Certain Department of Public Safety Funds

Revenues	Potential gain: (1) license reinstatement fees and (2) proceeds from sale of forfeited vehicles
Expenditures	Potential, likely no more than minimal, annual increase

Victims of Crime/Reparations Fund (Fund 4020)

Revenues	Potential gain: (1) locally collected state court costs and (2) proceeds from sale of forfeited vehicles
Expenditures	- 0 -

Drug Abuse Resistance Education Fund (Fund 4L60)

Revenues	Potential gain in proceeds from sale of forfeited vehicles
Expenditures	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- **Incarceration expenditures.** LSC fiscal staff has not collected any evidence suggesting a significant number of additional adults and juveniles might be sentenced to a period of incarceration or confinement in a state correctional facility. Assuming this were true, then the additional costs that the state might incur annually seems unlikely to exceed minimal. Minimal for the state means an estimated cost of less than \$100,000 per year.
- **Department of Public Safety.** Annually, the Department may collect a minimal amount of additional license reinstatement revenue, incur a minimal cost to distribute nitrous oxide purchase statements, and receive proceeds from the sale of criminally forfeited vehicles.
- **Court cost revenues.** It seems unlikely that the amount of locally collected state court cost revenue generated for deposit into the GRF and the Victims of

Crime/Reparations Fund (Fund 4020) annually would be likely to exceed minimal. Minimal for the state means a revenue gain estimated at less than \$100,000 per year.

- **Vehicle forfeitures.** As a result of the bill's criminal forfeiture provisions, additional vehicles may be subject to a court-ordered criminal forfeiture and subsequently sold, with some portion of the proceeds being paid into certain state law enforcement and forfeiture funds, including, but not limited to, the Victims of Crime/Reparations Fund (Fund 4020) and the Drug Abuse Resistance Education Fund (Fund 4L60). The magnitude of the proceeds that could be paid into any given state fund annually is uncertain.

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2009 – Future Years

Counties and Municipalities (criminal and juvenile justice systems)

Revenues	Potential gain in court costs and fines, annual magnitude uncertain
Expenditures	Potential increase in operating costs, annual magnitude uncertain

Law Enforcement Trust Funds (counties, municipalities, and townships)

Revenues	Potential gain in proceeds from sale of forfeited vehicles, annual magnitude uncertain
Expenditures	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Counties and municipalities generally.** It is unclear whether, in the case of any affected county or municipality, the additional revenues that could be generated will largely offset any costs generated to enforce the bill's street racing prohibitions. Thus, it is uncertain, in particular in counties and municipalities where street racing is an ongoing problem, whether the revenue generated will largely offset the enforcement costs. This means whether the net effect on any given county or municipality will be a more than minimal increase in enforcement costs is also uncertain. A more than minimal increase for a county or municipality means a cost estimated at more than \$5,000 per year.
- **Law enforcement trust funds.** As a result of the bill's criminal forfeiture provisions, additional vehicles may be subject to a court-ordered criminal forfeiture and subsequently sold, with some portion of the proceeds being paid into certain local law enforcement and forfeiture funds. The magnitude of the proceeds that could be paid into any given local fund annually is uncertain.

Detailed Fiscal Analysis

Overview

For the purposes of this fiscal analysis, the bill most notably:

- Expands the definition of street racing;
- Increases, under certain circumstances, the penalty for the offense of street racing from a misdemeanor to a felony;
- Provides that persons rendering "encouragement in any form or manner" be equally charged as participants;
- Requires the criminal forfeiture of the vehicle involved in the offense;
- Creates the offense of street racing manslaughter, a felony of the second degree;
- Requires the Department of Public Safety make a nitrous oxide purchase statement available to retail sellers; and
- Prohibits a person that purchases nitrous oxide from using it in a motor vehicle that the person operates on a public road, street, or highway, a violation of which is falsification, a misdemeanor of the first degree.

Street racing convictions

LSC fiscal staff has not been able to ascertain the number of persons that have been charged with the offense of street racing in Ohio annually statewide. We also do not know the number of persons who might have engaged in conduct suggestive of street racing, but were charged with a related traffic offense.

That said, the Department of Public Safety has reported, however, that in calendar years 2007 and 2008, respectively, a total of 150 and 122 drivers were convicted statewide of street racing. Around 50% of those convictions occurred in three distinct geographical areas of the state as follows:

- Jurisdictions within the counties of Cuyahoga, Lorain, Stark, and Summit;
- Jurisdictions within the counties of Hamilton, Warren, Clermont, Butler, and Montgomery; and
- Jurisdictions within Franklin County.

In roughly 50% of the state's 88 counties during that same two-year period, there were either no convictions for street racing reported, or, at most, one such conviction in either one or both calendar years.

Prohibited conduct and penalties

Counties and municipalities

Expenditures. The bill's street racing prohibitions and related penalty provisions will in all likelihood create additional work for county criminal/juvenile and municipal

criminal justice systems, as it expands what constitutes street racing, provides that persons encouraging such conduct be equally charged as participants, enhances certain circumstances from a misdemeanor to a felony, allows for the criminal forfeiture of a vehicle, and creates new misdemeanor and felony offenses. The practical effect for an affected local jurisdiction is twofold. First, it enhances penalties (longer jail or prison terms, higher fines, longer license suspensions, vehicle forfeiture). Second, it will likely lead to additional persons being arrested, charged, prosecuted, convicted, and sanctioned. These outcomes increase the costs of an affected county or municipality to investigate, prosecute, adjudicate, defend (if the person is indigent), and sanction violators.

Revenues. As a result of the bill, counties and municipalities may collect revenue from two sources: (1) court costs and fines and (2) proceeds from the sale of criminally forfeited vehicles.

Net effect. It is unclear whether, in the case of any affected county or municipality, the additional revenues that could be generated will largely offset any costs generated to enforce the bill's street racing prohibitions. Thus, it is uncertain, in particular in counties and municipalities where street racing is an ongoing problem, whether the revenue generated will largely offset the enforcement costs. This means whether the net effect on any given county or municipality will be a more than minimal increase in enforcement costs is also uncertain. A more than minimal increase for a county or municipality means a cost estimated at more than \$5,000 per year.

License suspensions

Under current law, street racing carries a mandatory license suspension of 30 days and allows the judge to extend that suspension for up to three years in addition to any other criminal sanctions imposed on the offender. Under the bill, the license suspensions involved for street racing will vary depending upon the circumstances surrounding the crime and the driving record of the defendant. The bill's expansion of street racing situations where a person could be charged with street racing could lead to an increase in the number of persons charged with this offense, convicted, and sanctioned. Under the bill, the court is required to impose a license suspension.

To restore their driving privileges, the defendant must pay the state's Bureau of Motor Vehicles \$30, to be deposited into the State Bureau of Motor Vehicles Fund (Fund 4W40). Although the number of such additional convictions is difficult to estimate, it seems unlikely that the amount of court cost revenue generated for deposit into Fund 4W40 annually would be likely to exceed minimal. Minimal for the state means a revenue gain estimated at less than \$100,000 per year.

State General Revenue Fund (GRF)

Incarceration expenditures

As a result of the bill's penalty enhancements: (1) additional adults may be sentenced to a prison term and (2) additional juveniles may be sentenced to a period of

confinement in a state juvenile correctional facility. In theory, the costs for the state's departments of Rehabilitation and Correction and Youth Services increase to secure and provide services to those persons and juveniles. LSC fiscal staff has not collected any evidence suggesting a significant number of additional adults and juveniles might be sentenced to a period of incarceration or confinement in a state correctional facility. Assuming this were true, then the additional costs that the state might incur annually seems unlikely to exceed minimal. Minimal for the state means an estimated cost of less than \$100,000 per year.

Court costs

As a result of the bill's prohibitions and related penalties, additional persons may be charged, arrested, and convicted of a criminal offense. In such a case, the court is generally required to impose state court costs of \$15 to be deposited into the GRF. Although the number of such additional convictions is difficult to estimate, it seems unlikely that the amount of court cost revenue generated for deposit into the GRF annually would be likely to exceed minimal. Minimal for the state means a revenue gain estimated at less than \$100,000 per year.

State Victims of Crime/Reparations Fund (Fund 4020)

The bill may generate additional revenues for deposit in the state's Victims of Crime/Reparations Fund (Fund 4020) from two sources: (1) locally collected state court costs and (2) proceeds from the sale of criminally forfeited vehicles.

Court costs

As a result of the bill, additional persons may be convicted of committing a misdemeanor offense, and persons who might have been convicted of committing a misdemeanor street racing offense under current law will, subsequent to enactment, be convicted of committing a felony offense. In the matter of a person convicted of a misdemeanor or felony offense, the court is generally required to impose state court costs of \$9 and \$30, respectively, to be deposited into Fund 4020. Although the number of persons that might be convicted of violating one of the bill's prohibitions is difficult to estimate, it seems unlikely that the additional revenues generated for deposit into the fund annually would be likely to exceed minimal. Minimal for the state means a revenue gain estimated at less than \$100,000 per year.

Forfeiture proceeds

As a result of the bill's criminal forfeiture provisions, additional vehicles may be subject to a court-ordered criminal forfeiture and subsequently sold, with some portion of the proceeds potentially being paid into Fund 4020. The magnitude of the proceeds that could be paid into the fund annually is uncertain.

Criminal forfeiture of a vehicle

The bill specifies when the court must or may order the criminal forfeiture of a vehicle involved in street racing. According to current criminal forfeiture law, after

establishing whether or not a lien holder exists, and/or has any right to the vehicle, the law enforcement agency that employs the law enforcement officer who seized the vehicle is offered the vehicle. If that agency does not desire the vehicle, it must be sold. The proceeds from the sale must be distributed as follows:

- Payment of the costs incurred in connection with the seizure, storage, and maintenance of, and provision of security for, the vehicle, any proceeding arising out of the forfeiture, and if any, the sale.
- Payment of the value of any lien or ownership interest.
- Remaining proceeds not to exceed a total amount of \$1,000 is paid into the appropriate local law enforcement trust funds and/or state forfeiture funds.
- Remaining proceeds shall be applied so that 50% is paid into the Victims of Crime/Reparations Fund (Fund 4020), 25% is paid into the Drug Abuse Resistance Education Fund (Fund 4L60), and 25% is paid into the appropriate local law enforcement trust funds and/or state forfeiture funds.

Thus, as a result of the bill's criminal forfeiture provisions, additional vehicles may be subject to a court-ordered criminal forfeiture and subsequently sold, with some portion of the proceeds being paid into certain state and local law enforcement and forfeiture funds. The magnitude of the proceeds that could be paid into any given state or local fund annually is uncertain.

Nitrous oxide purchase statement

The bill requires a retailer who sells at retail nitrous oxide to require every person who purchases nitrous oxide in this state from the retailer to complete and sign a nitrous oxide purchase statement to be developed and made available to retail sellers at no charge by the Department of Public Safety. The statement is required to include language to the effect that the purchaser agrees to not use the nitrous oxide in a motor vehicle that the person operates on a public road, street, or highway in this state. For the purposes of this fiscal analysis, LSC fiscal staff assumes that the annual cost for the Department to distribute the required statement will be minimal.