



**House
Legislative
Analysis
Section**

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DRUNK DRIVER DETENTION CENTERS

House Bill 5854

Sponsor: Rep. Frank M. Fitzgerald

House Bill 5855

Sponsor: Rep. Bill Martin

House Bill 5856

Sponsor: Rep. Richard Bandstra

Committee: Judiciary

House Bills 5857 and 5858

Sponsor: Rep. Michael E. Nye

Committee: Taxation

Complete to 8-29-90

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A SUMMARY OF HOUSE BILLS 5854-5858 AS INTRODUCED 6-5-90

House Bills 5854 through 5858 constitute a package of bills to establish and fund drunk driver detention centers throughout the state. A person convicted of a drunk driving offense could be placed on probation and sent to a center rather than be sentenced to jail. The court could allow a person to leave a center to attend classes, perform community service, or go to work; however, a person would not be allowed to travel more than 50 miles from the center. Travel in a private motor vehicle would be prohibited. Generally, a person would have to pay the cost of his or her confinement and treatment at a center, although community service could be ordered as a substitute for payment. Special taxes on alcoholic beverages would go into a fund created to pay for the costs of operating state-administered centers and to pay for administrative costs of the program. All of the bills would take effect January 1, 1991. Two of the bills, House Bill 5854, which would create the Drunk Driver Detention and Correction Center Act, and House Bill 5858, which would create a new tax on spirits, would be repealed December 31, 1996. None of the bills could take effect unless all were enacted. A more detailed explanation follows.

House Bill 5854 would create the Drunk Driver Detention and Correction Center Act, establishing a special bureau within the Department of Corrections, an advisory council, and a fund for drunk driver detention centers. The bureau would promulgate emergency rules, followed by permanent rules, that would establish standards for the effective treatment and rehabilitation of convicted drunk drivers in detention centers. Within nine months after the bill took effect, the bureau would establish and administer the first center with a minimum of 50 beds. The bureau also would administer and coordinate, through direct operation or contract, enough centers to meet the needs of each county in the state. Where the incidence of alcohol and other drug-related traffic offenses was not high enough to warrant a center for a county, the department would provide for the residents of that county to be confined at a center in another county. Security and confinement standards would be set by rule.

The governor would appoint a nine-member advisory council to advise the department on development of

standards for operating a center, develop a standard profile of someone likely to receive the greatest benefit from confinement at a center, and, at the request of the department director, review and evaluate any aspect of the program established by the bill. Council members would serve six-year terms, with initial terms staggered, and would include representatives from the fields of psychology, medicine, law enforcement, alcohol rehabilitation, and highway safety; it also would include representatives from the secretary of state, Mothers Against Drunk Driving, and the judiciary. The chairperson would be appointed by the governor. Council business would be subject to the Open Meetings Act and the Freedom of Information Act.

Within ten days after a person was confined in a center, the center would prepare a treatment plan for that person. Written evaluations of the person's behavior and progress would be done every 60 days thereafter. A copy of the treatment plan and each evaluation would be sent to the court, the prosecutor, and the person confined or his or her counsel.

The Drunk Driver Detention and Correction Center Fund would be created as a separate revolving fund in the state treasury. Any balance in the fund at the end of a fiscal year would remain in the fund, not revert to the general fund. The fund would be administered by the bureau and would be used to pay for the costs of operating centers that were directly administered by the bureau and to pay for other administrative costs, including costs incurred by the advisory council and any costs incurred under contract. Money would be deposited in the fund as provided by law, and could include grants and gifts made for the purposes of the bill.

By December 31, 1995, the department, in conjunction with the Secretary of State and the state police, would conduct a study measuring the effectiveness of the bill's program in reducing traffic offenses involving alcohol. By June 30, 1996, a report based on this study would be made to the legislature, the governor, and, if reestablished, the drunk driving task force.

H.B. 5854-5858 (8-29-90)

OVER

House Bill 5855 would amend the Michigan Vehicle Code to provide for confinement in a drunk driver detention and correction center as part of a sentence for someone convicted of driving under the influence of alcohol or a controlled substance, or someone convicted of driving while impaired. The required presentence screening would have to determine whether a person was likely to benefit from confinement in a detention center.

MCL 257.625 and 257.625b

House Bill 5856 would amend the Code of Criminal Procedure to provide for the terms of a probation order requiring a person to be confined in a drunk driver detention center. The period of confinement could not exceed the total period the person could be imprisoned in the county jail for the offense. The probation order could allow a person to attend classes, perform community service, or go to work. However, a person could not be permitted to travel more than 50 miles from the center. The order would specify the person's destination and the hours during which the person would be permitted to be away from the center. The order would require the person to use and pay for public transportation to and from the center; the person could not drive or ride in a privately owned motor vehicle not available for hire.

Generally, a person sent to a drunk driver detention center would have to pay the costs of confinement and treatment as a condition of probation. The court could order the person to pay in a lump sum, in installments, or, if the person was otherwise unable to pay, through the performance of community service. Community service would be performed within a specified amount of time and at a specified rate until the costs of treatment had been recovered; the public or private agency benefiting from the community service would remit to the center amounts equal to the value of the services performed. Money collected as costs of confinement and treatment would go into the Drunk Driver Detention and Correction Center Fund.

Willful failure to comply with any term of the probation order would be grounds for revocation of probation. Among the specifically allowed grounds would be a person's failure to make a good faith effort to pay the cost of confinement and treatment at a center. In determining whether to revoke probation for this reason, the court would have to consider the person's employment status, earning ability, and financial resources; the willfulness of the person's failure to pay, and any other special circumstances that could have a bearing on the person's ability to pay.

The sentencing court would promptly review a person's treatment plan and all written evaluations of that person's behavior and progress in a center. An unsatisfactory evaluation would be grounds for revocation of probation. At any time during a person's confinement, a center could certify that the person had satisfactorily completed the program of treatment; upon receiving this certification, the court could order the person released from the center.

A person could not be sent to a center more than twice during his or her lifetime.

MCL 771.3d

House Bill 5857 would amend the Michigan Liquor Control Act to impose a one-cent surcharge on each liter of wine and a ten-cent surcharge on each barrel of beer sold in the state. The liquor control commission would collect the money from January 1, 1991 through December 31, 1996.

The entire proceeds of the taxes would go into the Drunk Driver Detention and Correction Center Fund.

MCL 436.16a et al.

House Bill 5858 would create a new public act to impose a specific tax on spirits commencing January 1, 1991 and ending December 31, 1996, when the bill would be repealed. The liquor control commission would collect at the time of sale a tax of one percent of the retail selling price of the liquor. A licensed package liquor dealer would inventory liquor in stock as of January 1, 1991; the dealer would have until January 31 to pay a tax of two percent of the retail price on that inventory. All proceeds received under the bill would go into the Drunk Driver Detention and Correction Center Fund.