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BILL ANALYSIS

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Senate Bill 173 (Substitute S-1 as reported)

Sponsor: Senator Doug Cruce

Committee: Government Operations

Date Completed: 3-14-89

RATIONALE

Currently, drivers and front seat passengers in most motor vehicles must wear a properly adjusted and fastened seat belt. Section 710e, which requires the use of seat belts, has been in the Michigan Vehicle Code since July 1, 1985. When Michigan adopted its seat belt law, however, it included a sunset. Subsection 8 of Section 710e states that the seat belt requirements will not apply after April 1, 1989, if on that date or at any time thereafter, the Federal government requires the installation of passive passenger restraints in new automobiles, whether that requirement is by statute, administrative rule, court decision, or any other way. Federal Motor Vehicle Safety Standard Rule 208 requires passive restraint systems in 100% of new automobiles by September 1989.

Though it would appear, then, that the mandatory seat belt requirements in the Code are scheduled to expire on April 1, 1989, Subsection 8 is included among a number of sunset provisions deemed ineffective under an Attorney General Opinion (No. 6545 of 1987). The Opinion states that, in various acts, a repeal, expiration, or nonapplicability provision is not effective unless reference is made in the title of the act to the repeal on a specific date.

While there are those who feel that the Attorney General's Opinion has effectively extended the seat belt law indefinitely, there are others who feel that Subsection 8 should be eliminated so that there is no question about the applicability of the mandatory seat belt provisions. They argue that if the Attorney

General's Opinion were challenged, and an injunction, even a temporary injunction, were issued against enforcement of Section 710e, compliance with the provision would drop, resulting in an immediate increase in deaths and injuries from crashes.

CONTENT

The bill would amend the Michigan Vehicle Code to delete language that provides for the expiration of the Code's mandatory seat belt requirements on April 1, 1989.

MCL 257.710e

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS**Supporting Argument**

Though the provision that would eliminate the mandatory seat belt law has been ruled ineffective by an Attorney General Opinion, thus leaving the law intact, the provision should be struck in order to remove any doubt that Michigan will continue to have seat belt requirements now and in the future. Although the Attorney General Opinion appears to have the effect of extending the law indefinitely, the Opinion could be challenged. Proponents of mandatory seat belts are concerned that should a challenge to the Opinion be taken up, and a judge issue an injunction against enforcement

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of the seat belt use provisions, the resulting publicity regarding suspension of the law would have an immediate negative effect on the percentage of persons who use seat belts. When Section 710e was enacted only three other states had seat belt laws. Since that time, 27 other states and the District of Columbia have adopted seat belt laws. Evidence continues to mount showing that seat belt usage reduces deaths and injuries. Studies show that unrestrained occupants are 40 to 55% more likely than restrained passengers to be killed or injured in a crash. The National Highway Traffic Safety Administration says that seat belt use has helped save over 11,000 lives since 1983. Since it has been shown convincingly that seat belts save lives and reduce the frequency of severe injuries, such an action could cause an immediate increase in deaths and injuries from crashes. The existence of the seat belt law is too important to let its continuation depend upon "what ifs". The bill would eliminate the sunset, and thus eliminate any concerns that drivers in Michigan would have no legal reason to buckle-up. The bill would send a message to motorists that, regardless of possible arguments over, and challenges to, the technicalities of law, the State considers seat belt usage essential to driving.

Response: The bill is simply not needed. The provision that sunsets mandatory seat belt usage has been ruled ineffective, and thus extended the requirement and ensured its continuation. Until the provision is challenged, if ever, proponents of seat belt laws have exactly what they want. Passage of the bill could cause problems over and above the seat belt issue; it could encourage other groups to challenge other laws that have had repealer sections that were ruled ineffective by Attorney General opinion, on the ground that if the seat belt law sunset had to be removed to ensure that the sunset did not take effect, then other sunsets should also be stricken to ensure that they didn't take effect.

Supporting Argument

The mandatory seat belt law has the support of a large number of people in medicine, highway safety research, law enforcement, insurance, auto manufacturing, and government. This coalition recognizes the fact that seat belt use saves lives and reduces the number and

severity of injuries. Experience has shown that mandatory seat belt laws produce a significant and lasting increase in the use of seat belts, even when enforcement is relaxed. Among the arguments of proponents are the following:

- Persons involved in accidents and those who are close to them suffer incalculably, but the harm does not stop there. Everyone pays--in the form of higher taxes to pay for government services to victims and their families, hospital and medical costs, insurance premiums, lost wages and economic opportunities, and increased business expenses. Traffic accidents increase the cost of such government services as Medicaid, Aid to Families with Dependent Children, and Crippled Children's Fund, special education, and care in State institutions.
- The law is easy and inexpensive for the State to administer and for the public to comply with. Seat belts are standard equipment in most passenger vehicles, and the law exempts vehicles that do not routinely have them. State Police officials have said that even relying on voluntary compliance significantly increases the use of seat belts. Ensuring that the mandatory law continued could have a long-lasting effect on driving habits--children might grow up with the idea that wearing a seat belt is simply an essential part of riding in an automobile.

Supporting Argument

It is important to retain Michigan's seat belt law because the sunset, if it took effect, would be far too broad. Under the sunset provision, the seat belt law would be eliminated due to the Federal passive passenger restraint requirement, but that requirement applies only to new cars. Thus, the large number of Michigan motorists driving older vehicles would neither have a passive restraint, nor be required to wear a seat belt. Furthermore, the Federally required passive restraints do not necessarily offer the same protection as seat belts: air bags operate only one time and only in head-on collisions; and some passive restraint seat belts may be worn in a manner that reduces the protection afforded by traditional seat belt usage.

Opposing Argument

The bill would guarantee the continuation of a bad idea. A mandatory seat belt law is simply another government violation of the civil rights of its citizens. Even if one grants the overall beneficial effect of wearing seat belts, how can a mandatory use law be justified? By removing from the individual the right to choose his or her own level of risk, his or her own style of living, the State is essentially substituting its own judgment for the judgment of the individual--this is an illegitimate interference with the right of self-determination traditionally guaranteed to individuals in our society. The argument that the imposition of a seat belt law is justified by the great costs associated with the public's failure to wear seat belts is a specious one. Are our rights to be evaluated on the basis of cost-benefit ratios? One sure way to reduce health care costs is for all of us to eat properly, get plenty of rest, quit smoking, exercise sensibly, reduce stress, and so on. Yet no one is required by law to do any of these things, despite the social cost of allowing people the bad habits.

Response: Driving is not a right but a privilege. When one drives, one implicitly consents to the regulation of one's driving by State and local governments, for the sake of public safety. The protests provoked by the mandatory seat belt law are somewhat surprising, since many of the more vociferous of the law's opponents, simply by virtue of their operating a car on public roads, have consented without protest to traffic laws that could be regarded as equally "intrusive" as the seat belt requirement. Consider the State's drunk driving laws: although a strong case can be made for protecting the rights of someone who may be suspected of impaired or intoxicated driving, few would argue that government does not have some obligation to keep freewheeling drunkards off the road.

Opposing Argument

Seat belt use can produce injuries and cause deaths in accidents, in great part through trapping people in their vehicles. Further, there are many reasons for the high number of deaths and injuries on the State's roads; it is unfair to single out the lack of seat belt use. Today's cars are less safe than those of the recent past, for example.

Response: Most traffic safety experts argue that the use of seat belts is almost never detrimental to the occupants of automobiles. The idea, for example, that people can be better off if "thrown free" of their vehicles in accidents is given very little credence by those in the traffic safety and medical fields. One of the great advantages of wearing a seat belt is that in a collision a person stands a much better chance of staying conscious, of not hitting the dashboard or windshield. Obviously persons who are conscious stand far less chance of being trapped in vehicles.

Opposing Argument

While proponents of seat belt laws cite Michigan's usage rate (47%) as a step in the right direction, opponents can claim that the usage rate is evidence that the public doesn't want seat belt requirements. The fact that over half the population doesn't use seat belts, almost four years after the law was passed, speaks for itself. Sunset dates are placed in law so that the law's effect can be judged after a certain period of time. This law has obviously not been effective and should be allowed to sunset as planned.

Response: While the compliance rate of 47% is not what had been hoped for, it is far superior to the 15% usage rate that existed before the law was passed. It should be pointed out that the increase in seat belt usage has had a profound effect on reducing the harm done in accidents; studies estimate that the seat belt law has helped to prevent more than 43,000 injuries and deaths in Michigan alone. The current usage rate doesn't reveal the vast support among the public for the seat belt law; a recent study showed that 82% of the State's residents favor it. The reason actual usage is far lower than the number who support the law is because it is a secondary law--a person can be subjected to the penalties included for a violation of the seat belt provision only if he or she has been detained for a different suspected violation of the Code. If the seat belt provision were made a primary offense, the compliance rate would be much greater.

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