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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 762 (as passed by the Senate)
Sponsor: Senator Robert Geake
Committee: Commerce and Technology

Date Completed: 7-23-90

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RATIONALE

Generally, in Michigan, personal liability in any accident is assessed according to comparative negligence standards, i.e., the amount of damages assessed for an injury to an individual is reduced by the percent by which that individual's negligence contributed to his or her injury. Consistent with this principle, the Michigan Vehicle Code specifies that a person's failure to wear a seat belt as required by the Code may be considered as evidence of negligence and "may reduce the recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle". The Code also states, however, that the amount by which the damages are reduced cannot exceed 5%. There is no such statutory limit on the reduction in damages in other personal injury cases, and some feel that there should be no limit on the reduction of damages in cases involving failure to use seat belts. They contend that such an automatic limit unfairly benefits the plaintiff whose failure to use a seat belt may have contributed to his or her injuries by more than 5%. It has been suggested, therefore, that the Michigan Vehicle Code be amended to allow the reduction of damages sustained in a motor vehicle accident to be determined on the basis of comparative negligence standards.

CONTENT

The bill would amend the Michigan Vehicle Code to delete the provision that restricts to a maximum of 5% the amount by which a person's failure to wear a seat belt as required by the Code reduces the amount of damages he or she may recover.

MCL 257.710e

FISCAL IMPACT

The bill would have an indeterminate impact on State and local units of government. The bill could reduce payments in highway negligence cases against governmental units in cases in which the plaintiff was not wearing a safety belt.

ARGUMENTS**Supporting Argument**

It is only fair in all situations that liability for damages be assessed according to the extent to which a person's own negligence contributed to his or her personal injuries. The bill would remove an arbitrarily mandated limitation to the reduction in damages received due to a person's failure to wear a seat belt, and instead would allow responsibility for injuries sustained in an automobile accident to be assigned fairly according to the relative fault of the parties involved.

Opposing Argument

An otherwise innocent, injured party to an automobile accident should not have to risk assuming a substantial portion of the responsibility for his or her injuries simply because he or she was not wearing a seat belt. The person may have had valid medical reasons for not wearing the seat belt, may have been driving in an emergency situation, or may simply have forgotten to fasten the belt. For these reasons it is only just that there be a limitation on the extent to which a person's damages can be reduced due to his or her failure to wear a seat belt. Indeed, the 5% reduction limitation is quite consistent with the severity of the seat belt offense. It is a "no-point violation" actionable only on a secondary basis. That is, no one can be cited for failure

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to wear a seat belt unless he or she was stopped for another reason.

Opposing Argument

The bill would make the judicial process even more cumbersome than it already is by forcing juries in accident cases to decide the extent to which injuries suffered were the result of not wearing a seat belt.

Response: In all other negligence cases involving jury trials, the jury must determine the extent to which each party is responsible for the injuries sustained. The bill would not create a new or significantly burdensome responsibility for juries, nor would it necessarily impede the judicial process.

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