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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 851 (as reported with amendments)
Senate Bill 852 (as reported with amendments)
Sponsor: Senator Jack Welborn
Committee: Criminal Justice and Urban Affairs

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RATIONALE

Early in 1989, the Governor's Drug Policies Advisor recommended a user-accountability approach to fighting the war against drug use on the demand side. One of those recommendations was to mandate the suspension of a person's driver's or chauffeur's license, in addition to other criminal penalties, for a conviction of any of a number of drug-related offenses. Some feel that, in order to deter the casual use of illicit drugs, offenders should be required to forego their driving privileges for specific periods.

CONTENT

Senate Bills 851 and 852 would amend the Michigan Vehicle Code and Article 7 of the Public Health Code, respectively, to require the Secretary of State to suspend the driver's or chauffeur's license of a person found to have committed any of a number of drug-related offenses enumerated in Article 7 (MCL 333.7401-333.7407 and 333.7416). The suspension would have to be for six months if the person had no previous convictions or probate court dispositions for any of those offenses and for one year if the person had a previous conviction or probate court disposition for any of those offenses. The bills are tie-barred.

Senate Bill 851 also would prohibit the Secretary of State from issuing a driver's or chauffeur's license to a person who was not

licensed to drive and was found to have committed any of the listed drug-related offenses. That prohibition would apply for the period of suspension that otherwise would be applicable to a licensed driver and, for a person who was 16 years old or younger, would begin when the person was 16 years old. Senate Bill 852 would require that the court order the license suspension in addition to any other penalty and that the person whose license was ordered suspended surrender that license to the court immediately. The court would have to forward the license and a record of the conviction or probate court disposition to the Secretary of State.

The drug-related offenses to which the bills would apply prohibit the following:

- Manufacturing, delivering, or possessing with intent to manufacture or deliver a controlled substance, a prescription form or an official or counterfeit prescription form except as authorized by Article 7.
- Creating, delivering, or possessing with intent to deliver a counterfeit substance or a controlled substance or analogue for human consumption.
- Knowingly or intentionally possessing a controlled substance or a prescription form unless the controlled substance or form was obtained with a valid prescription.
- Using a controlled substance unless it was obtained with a valid prescription.

S.B. 851 & 852 (3-26-90)

- Distributing, prescribing, or dispensing a controlled substance in violation of the Code; manufacturing a controlled substance except as authorized; or maintaining a place or vehicle resorted to by persons using, keeping, or selling controlled substances illegally. (These prohibitions apply to persons licensed under the Code.)
- Distributing Schedule 1 or 2 controlled substances as a licensee except with an order form required for their purchase from a licensed manufacturer or distributor.
- Using a fictitious or invalid license number in the course of manufacturing or distributing controlled substances.
- Acquiring a controlled substance by fraud, forgery, or deception.
- Furnishing false material information in, or omitting material information from, a document required to be kept or filed under Article 7.
- Making, distributing, or possessing a device designed to mark a drug, container, or label and thereby render the drug a counterfeit substance.
- Possessing counterfeit prescription forms.
- Refusing to make, keep, or furnish a document or information required under Article 7.
- Recruiting, inducing, or coercing a person under 17 years old to commit a felonious controlled substance offense. (This prohibition applies to persons aged 17 or older.)

MCL 257.303 and 257.319 (S.B. 851)
333.7408 (S.B. 852)

FISCAL IMPACT

The bills would have a minimal fiscal impact on State and local units of government. According to the State Court Administrative Office, under these bills probate courts would face a minimal increase in administrative costs.

ARGUMENTS

Supporting Argument

Although the bills would not have a great impact on organized drug-dealing, they would deter drug use by addressing the demand side of the problem. The threat of a long

suspension of a person's driving privileges would make that person think twice before casually using illegal drugs.

Response: License suspension is a weak, ineffective deterrent. Like those whose driver's license has been suspended for drunk driving infractions, drug offenders probably could secure limited driving privileges to travel to and from work or treatment centers, for instance.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.