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BILL ANALYSIS

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House Bill 4469 (Substitute H-3 as reported without amendment)**Sponsor: Representative David Honigman****House Committee: Transportation****Senate Committee: State Affairs, Tourism, and Transportation****Date Completed: 6-3-87****RATIONALE**

Michigan law allows judges to order the issuance of a restricted license to a probationer convicted of drunk driving in order for the probationer to travel to and from work or for certain other purposes. While recognizing the need of probationers to get to and from work, many judges are very concerned that such a person will drink and drive again. The refinement of the ignition interlock device over the past few years has encouraged several judges in Michigan and other states to order its installation in the vehicles of convicted drivers. The device renders a vehicle inoperable unless the driver blows into a breath analyzer which measures blood alcohol level, thus allowing probationers to maintain the privilege of driving while affording judges some assurance that they will be less tempted to drink and drive. Currently, judges can impose any "reasonable condition of probation", and some have required the use of interlock devices, although the law does not clearly specify what is considered "reasonable".

CONTENT

The bill would amend the Michigan Vehicle Code to allow a court to order a person granted probation for a violation of driving under the influence (probationer) to refrain from operating a motor vehicle during probation unless the vehicle were equipped with a functioning, certified ignition interlock device (CIID). The device would have to be set to render the motor vehicle inoperable if the device detected 0.02% or more of alcohol in the blood of the person giving a breath sample. The court could require installation of CIIDs on any vehicle which the probationer owned or operated, whose costs would have to be borne by the probationer if the court determined that the person was or would be able to pay.

The Department would be required to certify CIIDs. The cost of certification of the interlock ignition devices would be borne by the manufacturers. Warning labels, designed by the Department of State, would have to be promptly affixed by the probationer to each CIID upon installation. The labels would warn that any person tampering, circumventing, or misusing the device would be guilty of a misdemeanor and could be subject to civil liability.

The bill would prohibit a probationer from soliciting another person to blow into the device in order to start the vehicle, and it would prohibit another person from blowing into the device in order to start the vehicle. The bill also would prohibit a probationer from tampering or circumventing the operation of the device. Violation of these provisions would be a misdemeanor, punishable by imprisonment for not more than six months or a fine of not more than \$5,000, or both.

MCL 257.1 et al.

FISCAL IMPACT

The bill would have an indeterminate fiscal impact. The cost to the Michigan Department of State of designing a warning label for an ignition interlock device is indeterminate at this time.

ARGUMENTS**Supporting Argument**

The bill would give explicit authority to judges to require the use of the ignition interlock device as a condition of probation. The bill also provides for the certification of the devices and penalties for tampering or misuse of the devices. These controls would add credibility to the sanction as it gains widespread use. More importantly, the bill would help protect the safety of others on the roads, by making it more difficult for a probationer to drink and drive again.

Opposing Argument

The bill appears to be somewhat ambiguous as to whether a probationer who could not afford to pay for a CIID would have an opportunity to use one, and the bill thus could potentially discriminate against low income probationers who could not pay the \$400 or \$500 cost of buying a CIID or of leasing and maintaining a device. Although the bill provides for a judicial determination of a probationer's ability to pay, there is no express provision for the State to pay for a CIID in the event a probationer could not afford it. The income, or ability to pay, of a probationer should have no bearing on whether the privilege of driving is granted to that person by a judge. The bill should specify that the public would pay for installation of the device when the probationer could not.

Response: Nothing in the bill says that only those who could afford a CIID would have the opportunity to use one; it just provides that those who had the financial resources should shoulder the costs. It would be the determination of the judge as to who had to pay for the device.

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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.

H.B. 4469 (H-3) (6-3-87)