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BILL ANALYSIS

Senate Fiscal Agency

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RECEIVED**House Bill 4547 (as reported with amendment)****Sponsor: Representative William Van Regenmorter****House Committee: Judiciary****Senate Committee: State Affairs, Tourism, and Transportation**

JUL 11 1988

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Date Completed: 6-15-88**RATIONALE**

A key feature of the State's effort to get drunk drivers off the roads is the requirement for courts to report alcohol-related offenses to the Department of State, so that the Department, law enforcement agencies, and the courts can have up-to-date information on a person's driving record. Without adequate monitoring and recordkeeping on drunk driving convictions, a repeat offender can escape the higher penalties that apply to subsequent convictions. Other vehicle-related convictions also are supposed to be reported to the Department of State, and these records, along with those for drunk driving, help to ensure that appropriate sanctions such as penalty points or license suspensions are imposed.

In 1986, following newspaper accounts that courts were sometimes failing to notify the Department of State of drunk driving convictions, the Legislature passed House Concurrent Resolution 793. That resolution requested the Auditor General to review recordkeeping on traffic-related offenses, especially drunk driving convictions. Following a review of procedures in various courts and the Department of State, the Auditor General found that many traffic-related convictions were not being reported to the Department of State as required by law (see Background Information). Among the problems cited were the reluctance of some clerks to forward records of convictions that were not clearly identified as vehicle-related, and a lack of consistency and timeliness with forwarding records on default judgments (issued when a driver fails to answer a citation for a civil infraction), warnings issued in juvenile court, and other actions.

In response to the Auditor General's report, a task force composed of judges, State Court Administrative Office personnel, Department of State personnel, and others was convened to develop the amendments to statute and court rules necessary to implement the Auditor General's recommendations.

CONTENT

The bill would amend the Michigan Vehicle Code to require court clerks, who currently are required to forward information to the Secretary of State concerning certain driving offenses, to certify biannually that those abstracts had in fact been forwarded. The bill also would:

- Extend the reporting requirement to include juvenile offenders.
- Specify the offenses required to be reported, including a "felony in which a motor vehicle was used".
- Require the prosecutor to include in the charging instrument a statement about license suspension when a person was charged with a felony in which a motor vehicle was used.

Under the Code, the Secretary of State is required to suspend a person's driver's license for 90 days to two years upon receiving a record of the conviction or determination of certain driving offenses. Court clerks and municipal judges are required to forward to the Secretary of State an abstract of the court record. Under the bill, in addition to convictions, civil infraction determinations, and bail forfeitures, clerks and municipal judges would have to report attempts to commit one of the offenses in question, orders of disposition for children under the juvenile court's jurisdiction for those offenses, and default judgments.

At present the offenses that must be reported include manslaughter or negligent homicide resulting from the operation of a motor vehicle and a crime punishable as a felony under a State law regulating motor vehicles or any other felony involving the use of a motor vehicle. The bill would specify instead, negligent homicide with a motor vehicle, vehicle theft, joy riding, and felonious driving, and would add a felony in which a motor vehicle was used, and fraudulently altering or forging documents pertaining to a certificate of title, registration, or license plate. The bill also would retain the reporting requirement for willfully failing an officer's direction to stop; fleeing the scene of an accident; three charges of reckless driving within a year; and perjury or making a false certification under vehicle registration or regulation laws.

A "felony in which a motor vehicle was used" would refer to a felony committed by a person who was operating a motor vehicle and, while operating the vehicle, presented real or potential harm to persons or property, when one or more of the following circumstances existed:

- The vehicle was used as an instrument of the felony.
- The vehicle was used to transport a victim of the felony.
- The vehicle was used to flee the scene of the felony.
- The vehicle was necessary for the commission of the felony.

If a person were charged with a felony in which a motor vehicle was used (other than one of the specifically named crimes, such as negligent homicide), the prosecuting attorney would be required to include a statement on the charging instrument (the complaint and information filed in district or circuit court, and the petition filed in juvenile court) that conviction of that offense would result in suspension of the person's driver's license.

Persons required to forward abstracts to the Secretary of State would have to certify for the periods from January 1 through June 30, and July 1 through December 31, that all abstracts required to be forwarded had been. The certification would have to indicate the person's name and title, the court, the time period, and other information the Secretary of State considered necessary.

HB 4547 (6-15-88)

H.B. 4547 (6-15-88)

In addition, the bill would change various notice and reporting periods to multiples of seven days. For example, the period for forwarding abstracts to the Secretary of State would be changed from 15 to 14 days.

The bill would take effect July 1, 1988, and apply to violations that occurred on or after that date.

MCL 257.319 et al.

SENATE COMMITTEE ACTION

The State Affairs, Tourism, and Transportation Committee adopted an amendment to provide that the bill would take effect July 1, 1988, and apply to violations that occurred on or after that date. (3-17-88)

After requesting the bill to be returned from the House, the Senate Committee on State Affairs, Tourism, and Transportation adopted an amendment to the bill to make it consistent and with the changes made to the Michigan Vehicle Code by Public Act 232 of 1987. (6-7-88)

BACKGROUND INFORMATION

The Auditor General's review of 14 circuit, seven probate, and 28 district courts indicated that 98% of the traffic-related convictions in district court were being reported to the Department of State as required by law, but that about 80% of the circuit court convictions and 30% of the juvenile court adjudications were not. The report said that because district courts hear a majority of the traffic-related cases, most traffic related convictions in the State were being reported. District court, however, were not consistently and promptly submitting abstracts for drivers who failed to answer citations (default judgments), failed to comply with judgments, or failed to appear in court for violations of the vehicle code.

Within the circuit court sample examined by the Auditor General, approximately 41% of drunk driving convictions and 88% of felony convictions involving a motor vehicle were not reported to the Department of State. A lack of clear procedure, especially with regard to felony cases which involved a motor vehicle, was identified along with a failure to follow procedure. Some clerks evidently were reluctant to decide whether a motor vehicle was involved and suggested that this be noted by the prosecutor in the complaint and warrant, and by the judge at sentencing. The report said that there was no mechanism in the system to identify these cases easily for reporting purposes.

FISCAL IMPACT

The bill would have an indeterminate impact on State and local government. The Department of State reports that the bill would have a minimal impact on the Department.

Enforcement costs to local government regarding license suspensions for certain felonies involving the use of an automobile cannot be estimated.

ARGUMENTS

Supporting Argument

An essential element in dealing with unsafe drivers is the conviction information that court clerks are to provide the Department of State. Unfortunately, a lack of clear procedure and notification for clerks apparently has led to a low level of compliance from the county clerks who are to report information from circuit courts, and to inconsistency and tardiness with regard to reports sent from other courts. The bill represents a major portion of the

recommendations of the Auditor General and the task force appointed by the State Court Administrator. In accordance with those recommendations, the bill would clarify reporting procedures and thereby improve recordkeeping on drunk drivers and others who use motor vehicles irresponsibly.

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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.