

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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Senate Bills 556 through 560 (as introduced 4-29-99)
Sponsor: Senator William Van Regenmorter (Senate Bill 556)
Senator Mike Rogers (Senate Bill 557)
Senator Bev Hammerstrom (Senate Bill 558)
Senator Walter H. North (Senate Bill 559)
Senator Art Miller, Jr. (Senate Bill 560)
Committee: Judiciary

Date Completed: 5-5-99

CONTENT

Senate Bills 556 through 560 would amend various acts to make revisions to drunk driving and driving without a license provisions enacted in 1998 (Public Acts 340-359 of 1998). Among other things, the bills would make changes concerning vehicle immobilization; increase the portion of clearance fees paid to the Secretary of State; authorize magistrates to arraign and sentence on violations punishable by up to 93 days' imprisonment; allow the issuance of appearance tickets for misdemeanor violations of the Michigan Vehicle Code punishable by up to 93 days' imprisonment; and permit, rather than require, an arresting law enforcement agency to fingerprint a person arrested for a local ordinance violation punishable by more than 92 days' imprisonment. Senate Bill 556 would amend the Michigan Vehicle Code, Senate Bill 557 would amend the Public Health Code, Senate Bill 558 would amend the Revised Judicature Act, Senate Bill 559 would amend the Code of Criminal Procedure, and Senate Bill 560 would amend the bureau of criminal identification Act.

The bills would take effect on October 1, 1999, and are tie-barred to each other, to House Bills 4580 through 4584, and to a bill that has not yet been introduced.

Senate Bill 556

The bill would do all of the following:

- Delete "a temporary registration plate, vehicle immobilization, or vehicle forfeiture" from the list of information the Secretary of State is required to maintain in its computerized central file of individual, historical driving records.
- Include a vehicle's co-owner or co-lessee in a provision requiring that the Secretary of State refuse issuance or transfer of registration or

title, if the owner's or lessee's driver's license is suspended, revoked, or denied or the operator has never been licensed in Michigan, for a third or subsequent drunk driving violation or a fourth or subsequent suspension or revocation for driving without a license or while a license was suspended or revoked.

- Provide that the Secretary of State could not issue a registration for a vehicle for which a temporary registration plate was issued under the 1998 legislation until the violation resulting in the issuance of the temporary plate was adjudicated or the vehicle was transferred to a person who was subject to a use tax under the Use Tax Act (MCL 205.93).
- Prohibit the transfer or assignment of title or an interest in a vehicle to a person who is not subject to payment of a use tax during the time the vehicle is subject to registration denial or the period from adjudication to immobilization or forfeiture. (This Vehicle Code already applies this prohibition to the time a vehicle is subject to a temporary registration plate, vehicle forfeiture, or immobilization.)
- Remove from the list of persons to whom the Secretary of State may not issue a driver's license a person who has been convicted of or received a juvenile disposition for drunk driving with a passenger and add to that list a person who caused a death or serious impairment of a bodily function due to driving without a license or while his or her license was suspended or revoked. The bill also would add those offenses to the list of prior convictions that preclude the issuance of a driver's license, and that require revocation of a license.
- Add drunk driving of a commercial vehicle (257.625m) to the conditions that allow the Secretary of State to require a licensee to be reexamined within 24 months after his or her probationary period, if the driver accumulated nine or more points within a two-year period.

- Increase the Secretary of State's share, from \$6 to 60%, of each \$25 clearance fee for: failure to answer a citation or pay a fine or cost, failure to answer multiple parking violations, and State civil infractions. (The Secretary of State would receive \$15 of each fee under the bill.)
- Remove the facts and circumstances relating to a license, designation, or indorsement revocation from the issues about which a court may take testimony and examine facts and circumstances in a grievance against the Secretary of State.
- Provide that Chapter VIII of the Vehicle Code, regarding penalties, would have to apply uniformly throughout the State and in all political subdivisions and municipalities. A local authority could not adopt, enact, or enforce a local law, charter provision, ordinance, rule, or regulation that was in conflict with Chapter VIII. (The Vehicle Code already requires uniform application of Chapter VI, regarding obedience to and effect of traffic laws.)
- Prohibit a person from authorizing or knowingly permitting a vehicle to be operated by someone whose ability to operate the vehicle was visibly impaired due to the consumption of liquor and/or a controlled substance.
- Provide that a temporary license or permit issued to a person who refused a chemical test or submitted to a test that revealed an unlawful alcohol content would be valid, if the case were prosecuted, until the criminal charges were dismissed, the person was acquitted, or the person's license or permit was suspended, restricted, or revoked. (Currently, the temporary license or permit is valid until the criminal charges are dismissed; the person pleads guilty or nolo contendere, is found guilty, or is acquitted; or the person's license is suspended, whichever occurs earlier.)
- Specify that the purpose of the Drunk Driving Caseflow Assistance Fund would be to promote the timely disposition of cases involving all drunk driving offenses of the Vehicle Code as well as drunk boating, and drunk operation of an ORV, and all drunk snowmobiling offenses under the Natural Resources and Environmental Protection Act. (Currently, the purpose of the Fund is to promote the timely disposition of certain drunk driving and drunk snowmobiling cases.)
- Specify that, if a prosecuting attorney intended to seek enhanced penalties for driving without a license or while a license was suspended or revoked based on the defendant's having prior convictions, the prosecutor would have to include on the complaint and information a statement listing the prior convictions. Prior convictions could be established by an abstract of conviction, a copy of the defendant's driving record, or an admission by the defendant.
- Provide that a temporary registration plate issued when a peace officer detained a driver for a violation for which vehicle immobilization was required would be valid until the charges were dismissed or the person pleaded guilty or nolo contendere, was found guilty, or was acquitted. The bill would delete a provision that the temporary plate is valid for 100 days unless extended by the court.
- Provide that vehicle immobilization would apply for 90 days, rather than 24 days, for a drunk driving conviction within seven years after a prior conviction, and for one year, rather than six months, for a drunk driving conviction within 10 years of two or more prior convictions.
- Require vehicle immobilization for up to 180 days if a person were convicted for causing a death or serious impairment of a bodily function due to driving without a license or while a license was suspended or revoked and the driver had not more than one license suspension.
- Specify that a court could order vehicle immobilization if the defendant were the owner, co-owner, lessee, or co-lessee of the vehicle operated during an applicable violation, or if the owner, co-owner, lessee, or co-lessee knowingly permitted the vehicle to be operated in violation of drunk driving or license suspension provisions, regardless of whether a conviction resulted. (Currently, the Code prohibits a court from ordering vehicle immobilization if the defendant is not the owner or lessee of the vehicle, unless the owner or lessee knowingly permitted the vehicle's use in violation of drunk driving or license suspension provisions.)
- Define "prior conviction" with respect to the Code's vehicle immobilization provisions, as a conviction for impaired driving, driving under the influence, causing a death or serious impairment of a bodily function due to drunk driving, drinking and driving by a minor, drunk driving with a passenger under 16 present in the vehicle, and drunk driving of a commercial vehicle, as well as negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.
- Require that, if a peace officer stopped a vehicle that was being operated in violation of an immobilization order, the vehicle be impounded pending a court order.

Senate Bill 557

The Public Health Code provides for driver's license sanctions and the issuance of a restricted license for violations of the Code's controlled substance and androgenic anabolic steroid provisions.

The bill specifies that, regardless of a court order issued under the Code's license sanction provision, the Secretary of State could not issue a restricted license to a person whose license was suspended for a controlled substance or steroid violation unless a restricted license was authorized under that provision and the person was otherwise eligible for a license.

The bill also provides that, while driving, a person who had a restricted license under the Code would have to carry proof of his or her destination and the hours of any employment, class, or other reason for traveling and would have to display that proof upon a peace officer's request.

A restricted license is allowed under the Code for travel between a person's home and work location, a court-ordered alcohol or drug education or treatment program, the court probation department, a court-ordered community service program, or an educational institution at which the person is enrolled as a student. The bill would add to that authorization travel between a person's home and a place of regularly occurring medical treatment for a serious condition for the person or a member of his or her household or immediate family.

Senate Bill 558

The Revised Judicature Act provides that a district court magistrate has jurisdiction to arraign and sentence, upon a plea of guilty or nolo contendere, for violations of certain acts or parts of acts or a corresponding local ordinance, when authorized to do so by the chief judge of the district court and if the maximum permissible punishment does not exceed 90 days in jail and/or a fine.

Currently, a magistrate may arraign and sentence on violations of the Michigan Vehicle Code, except for the Code's drunk driving provisions, although a magistrate may arraign defendants and set bond with regard to drunk driving violations. The bill would delete and reenact that provision, except that a magistrate would have the authority to arraign and sentence if the maximum permissible punishment did not exceed 93 days in jail and/or a fine.

Senate Bill 559

The Code of Criminal Procedure allows an "appearance ticket" to be issued for a misdemeanor violation of various acts for which the maximum permissible penalty does not exceed 92 days in jail and a fine. The bill specifies that an appearance ticket could be issued for a misdemeanor violation of

the Michigan Vehicle Code or a local ordinance substantially corresponding to a provision of the Vehicle Code, for which the maximum permissible penalty did not exceed 93 days.

"Appearance ticket" means a complaint or written notice issued and subscribed by a police officer or other public servant authorized by law or ordinance to issue it, directing a designated person to appear in a designated local criminal court at a designated future time in connection with his or her alleged commission of a designated violation of a State law or local ordinance for which, except as otherwise provided in the Code, the maximum permissible penalty does not exceed 90 days in jail and a fine of \$500.

Senate Bill 560

The bureau of criminal identification Act provides that, immediately upon a person's arrest for a felony or a misdemeanor for which the maximum possible penalty exceeds 92 days' imprisonment and/or a maximum fine of \$1,000, or for a juvenile offense, the arresting law enforcement agency must take the person's fingerprints in duplicate and forward the fingerprints to the Department of State Police within 72 hours after the arrest. One set of fingerprints must be sent the central records division of the Department and one set must be furnished to the Director of the Federal Bureau of Investigation. The bill would create an exception to these requirements, as described below.

The Act authorizes, but does not require, an arresting law enforcement agency to take one set of fingerprints of a person who is arrested for a misdemeanor punishable by up to 92 days' imprisonment and/or a maximum fine of \$1,000 and who fails to produce satisfactory evidence of identification. The fingerprints must be forwarded immediately to the Department of State Police. Upon completion of the identification process, the Department must return the fingerprints to the arresting law enforcement agency. The Act also authorizes an arresting law enforcement agency to take the fingerprints of a person arrested for any other misdemeanor, but prohibits the forwarding of those fingerprints to the Department of State Police unless the person is convicted.

The bill would permit an arresting law enforcement agency to take the fingerprints of a person arrested for a misdemeanor that was a violation of a local ordinance for which the maximum penalty exceeded 92 days' imprisonment and that substantially corresponded to a violation of State law that was a misdemeanor whose maximum term of imprisonment exceeded 92 days. The fingerprints could not be forwarded to the Department of State Police before conviction. If the person were convicted of such a

misdemeanor, the law enforcement agency would have to take the person's fingerprints, if not previously taken, and forward them within 72 hours after the conviction in the same manner as provided for the fingerprints of a person arrested for a felony or a misdemeanor for which the maximum penalty exceeded 92 days' imprisonment. The law enforcement agency would have to indicate the statutory citation for the State law to which the local ordinance substantially corresponded.

The bills would have a minimal fiscal impact on State and local law enforcement agencies.

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MCL 257.204a et al. (S.B. 556)
333.7408a (S.B. 557)
600.8511 (S.B. 558)
764.9f (S.B. 559)
28.243 (S.B. 560)

Legislative Analyst: P. Affholter

FISCAL IMPACT

Senate Bill 556

The bill would make technical revisions to the repeat driving offender legislative package that was passed in 1998. Senate Bill 556 would change the portion of the driver license clearance fee that the Department of State collects from \$6 to 60% of the amount of the fee. The fee is \$25. Therefore, \$15 from each paid clearance fee would be distributed to the Department. This would amount to an increase of \$9 for each fee paid to the Department. It is unknown how many drivers will pay the clearance fee. The fiscal impact of this provision is indeterminate. However, the Department of State has requested \$1,748,600 in an FY 1998-99 supplemental appropriation and \$2,479,000 in the FY 1999-2000 General Government appropriation bill to implement and maintain all facets of the repeat offender legislation. The legislation will become effective on October 1, 1999.

Senate Bill 557

The bill would revise some requirements of the comprehensive repeat offender legislation signed into law in 1998. The fiscal impact of these revisions is indeterminate.

Senate Bill 558

The bill would allow magistrates to continue to arraign and sentence certain cases, thereby resulting in administrative savings to local courts.

Senate Bill 559 and 560

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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.