



**House  
Legislative  
Analysis  
Section**

House Office Building, 9 South  
Lansing, Michigan 48909  
Phone: 517/373-6466

**FELONIOUS DRIVING**

**House Bills 4596, 4597, 4813, 4924 and  
4925 as passed by the House  
Second Analysis (8-1-01)**

**Sponsor: Rep. Ruth Johnson  
Committee: Criminal Justice**

***THE APPARENT PROBLEM:***

Various state laws prohibit the reckless operation of a motor vehicle. Public Act 214 of 1931 makes it a felony to drive a vehicle upon a highway carelessly and heedlessly in willful and wanton disregard of the rights or safety of others if such driving endangers other persons or property or results in a crippling injury to another person. Punishment can include up to two years of imprisonment, a fine up to \$1,000, or both, plus a mandatory one-year suspension of the violator's driver's license. However, a shortcoming in this law was revealed last summer when a high school athlete was severely injured in an incident in her high school parking lot. According to information supplied by the Village of Holly Police Department to the bills' sponsor, a high school athlete, after returning from a sportsmanship banquet, drove his pickup truck backwards in the high school parking lot and failed to see another banquet attendee standing beside her car. The truck hit the car broadside, catching the other student athlete between the bumper of the truck and the side of her car. The young woman sustained crushing injuries to both legs and has since required multiple surgeries.

Certain facts of the case seemed to fit the charge of felonious driving, such as the willful and wanton nature of the actions of the driver and the crippling injury to the young woman. However, since the incident occurred in a parking lot and not on a highway or street, the driver could only be charged with the lesser offense of reckless driving. Though the tragic nature of this particular incident has focused attention on the shortcomings of the felonious driving statute, it is not uncommon for serious injuries to occur in parking lots because a motorist is driving too fast or otherwise driving in a manner that puts others at risk. Therefore, legislation is being offered to expand felonious driving to include incidents occurring in parking lots. Further, the felonious driving statute is a small, stand-alone act. Some believe that this act should be repealed and that the offense of felonious driving should be contained in the Michigan Vehicle Code.

In a related matter, several acts contain references to Public Act 214 of 1931, the felonious driving statute. Legislation is being offered to make technical corrections to the citations contained in those acts.

***THE CONTENT OF THE BILLS:***

House Bills 4596 and 4597 would move a provision of law prohibiting felonious driving into the Michigan Vehicle Code, expand the definition of felonious driving to include reckless driving in a parking lot, and add the corresponding sentencing guideline for felonious driving to the Code of Criminal Procedure. House Bills 4813, 4924, and 4925 would amend various acts to correct references to Public Act 214, the felonious driving statute, to conform to the changes brought about by House Bill 4596. House Bills 4597, 4813, 4924, and 4925 are tie-barred to House Bill 4596. The bills would take effect January 1, 2002. Specifically, the bills would do the following:

House Bill 4596 would repeal Public Act 214 of 1931, which prohibits felonious driving, and place a similar provision within the Michigan Vehicle Code (MCL 257.626c). Currently, under P.A. 214, it is a felony to drive a vehicle on a highway carelessly and heedlessly in wanton disregard of the rights or safety of others, or without due caution and circumspection at a speed or in a manner that endangers or is likely to endanger any person or property so as to cripple, but not cause death. A violation is a felony punishable by up to two years of imprisonment, a fine of up to \$1,000 or both. The bill would place a substantially similar provision in the Michigan Vehicle Code, but would expand the prohibition on felonious driving to include reckless driving in a place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles.

Public Act 214 also requires the secretary of state to suspend the operator's or chauffeur's license of a

**House Bills 4596, 4597, 4813, 4924 and 4925 (8-1-01)**

person convicted of felonious driving as provided in Section 319 of the Michigan Vehicle Code [MCL 257.319(2)(c)]. This provision would be repealed. [Section 319(2)(c) requires the secretary of state to immediately suspend a person's license for one year for a violation of Section 1 of Public Act 214 of 1931.]

House Bill 4597 would amend the Code of Criminal Procedure (MCL 777.12) to specify that felonious driving would be a Class G felony against public safety, with a two-year maximum sentence of imprisonment.

House Bill 4813 would amend the Michigan Vehicle Code (MCL 257.319 and 257.732). Currently, the vehicle code requires the secretary of state to suspend a person's driver's license for one year for a violation of Section 1 of Public Act 214. House Bill 4813 would amend this provision of the code to instead refer to a violation of Section 626c, which would be placed in the code by House Bill 4596. House Bill 4813 would also make several technical corrections to references within the code necessitated by recent legislative action.

House Bill 4924 would amend the Insurance Code (MCL 500.2103) to include a reference to both Section 1 of the former Public Act 214 and the new Section 626c of the vehicle code so that individuals who had been cited for felonious driving under either of the sections would still be ineligible for auto insurance for the requisite period of time. In addition, the bill would make technical corrections by deleting a reference to Section 625b of the Michigan Vehicle Code, which formerly contained the prohibition on drunk driving, but was rewritten by 1991 legislation; and would also change the reference from the Family Court to the Family Division of Circuit Court to reflect the recent court restructuring.

House Bill 4925 would amend the Natural Resources and Environmental Protection Act (MCL 324.82147). Currently, the act requires the secretary of state to issue an order that a person not operate a snowmobile if convicted of certain offenses, including felonious driving, for specified periods of time. The bill would include a reference to both Section 1 of the former Public Act 214 and the new Section 626c of the Michigan Vehicle Code, which would be placed in the code by House Bill 4596. The bill would also make technical changes to the listed periods of ineligibility to operate a snowmobile to conform to other provisions of law.

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency reports that the package would have no significant fiscal impact. (8-1-01)

### ***ARGUMENTS:***

#### ***For:***

Currently, if a person drives a car in a parking lot in a reckless manner and severely injures another person, the driver cannot be charged with felonious driving, since such a charge can only be brought against a driver if the accident occurred on a highway. This would appear to be an oversight, as the lesser charges of careless driving (a civil infraction) and reckless driving (a misdemeanor with a minimal fine and up to 90 days in jail) apply to incidents in parking lots, as do the drunk driving laws. House Bills 4596 and 4597 would merely correct a deficiency by expanding the felonious driving offense to include incidents occurring in parking lots. This change would parallel language in other provisions of law that relate to unsafe driving practices.

#### ***For:***

Public Act 214 of 1931, the felonious driving statute, predates the Michigan Vehicle Code. House Bill 4596 would repeal Public Act 214 and move its provisions into the code. Concentrating all laws that pertain to the same subject in one act simply makes good sense.

#### ***For:***

House Bills 4813, 4924, and 4925 would make only technical corrections to citations contained in the Michigan Vehicle Code, the Insurance Code, and the Natural Resources and Environmental Protection Act (NREPA), respectively. The proposed changes would incorporate changes to citations necessitated by other recently enacted legislation and the anticipated enactment of House Bill 4596.

For instance, House Bill 4813 would eliminate references to Public Act 214 of 1931 (the current statutory prohibition on felonious driving) and Section 653a of the vehicle code (which governs how to lawfully pass stationary emergency vehicles) from a provision that requires a court to forward abstracts of court records involving various convictions or civil infraction determinations to the secretary of state. These references are not needed because under the vehicle code, a court is already obligated to prepare and forward a court abstract to the secretary of state upon a charge of or citation for violating the code or a substantially similar local ordinance.

In addition, Public Act 214 also requires the secretary of state to suspend the operator's or chauffeur's license of a person convicted of felonious driving as provided in Section 319 of the Michigan Vehicle Code. However, if House Bill 4596 were enacted, this provision of Public Act 214 would be repealed. As Section 319(2)(c) of the vehicle code requires the license suspension in response to a violation of Section 1 of Public Act 214, it is necessary for House Bill 4813 to amend the vehicle code to instead refer to the new felonious driving provisions that would be placed in the code if House Bill 4596 were enacted.

***Against:***

Parking lots are usually private property. To expand the felonious driving charge to include incidents occurring in parking lots could be seen as an infringement on personal privacy rights.

***Response:***

Incidents occurring in parking lots can already be cited as careless driving or reckless driving offenses, and drunk driving laws apply in parking lots, also. It is clear from current law that the state does have the authority to enforce safe driving even on privately-owned areas such as parking lots that are open to the general public or that are generally accessible to motor vehicles.

***POSITIONS:***

The Department of State Police supports the package of bills. (7-27-01)

The Michigan Interfaith Council on Alcohol Problems (MICAP) supports House Bills 4596 and 4597. (6-18-01)

Analyst: S. Stutzky

---

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.