



**House
Legislative
Analysis
Section**

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FELONIOUS DRIVING

**House Bill 4813 as enrolled
Public Act 134 of 2001**

**House Bill 4924 as enrolled
Public Act 147 of 2001**

**House Bill 4925 as enrolled
Public Act 148 of 2001**

Sponsor: Rep. Ruth Johnson

**Senate Bill 675 as enrolled
Sponsor: Sen. William Van Regenmorter**

**House Committee: Criminal Justice
Senate Committee: Judiciary
Third Analysis (1-18-02)**

House Bills 4813, 4924, 4925 and Senate Bill 675 (1-18-02)

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 Bill 4813 and Senate Bill 675 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 4924 and 4925 would amend different acts to correct references to Public Act 214, the felonious driving statute, to

conform to the changes brought about by House Bill 4813. House Bills 4924, 4925 and Senate Bill 675 are tie-barred to House Bill 4813. The bills would take effect February 1, 2002. Specifically, the bills would do the following:

House Bill 4813 would repeal Public Act 214 of 1931, which prohibits felonious driving, and place a similar provision within the Michigan Vehicle Code (MCL 257.58c et al.). 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 (Section 626c), 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.

In addition, the bill would remove the reference to a crippling injury and would instead refer to “a serious impairment of a bodily function”, which would be defined as one or more of the following:

- Loss of a limb or use of a limb;
- loss of a foot, hand, finger, or thumb (or its use);
- loss of an eye or ear (or its use);
- loss or substantial impairment of a bodily function;
- serious visible disfigurement;
- a comatose state that lasts for more than three days;
- measurable brain or mental impairment;
- a skull fracture or other serious bone fracture;
- subdural hemorrhage or subdural hematoma; or,
- loss of an organ.

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 [MCL 257.319(2)(c)]. Instead, the bill would require the secretary of state to immediately suspend a person’s

license for one year for a violation of Section 1 of former Public Act 214 of 1931 or for a violation of the new Section 626c. Further, the bill would make several technical corrections to references within the code necessitated by recent legislative action.

Senate Bill 675 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 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 Senate Fiscal Agency reports that the package would have an indeterminate fiscal impact on state and local government. In a fiscal note dated 10-10-01, the agency reported that according to the annual statistical report from the Department of Corrections (DOC), there were 29 convictions for felonious driving in 1999. There are no data to indicate how many more offenders would be convicted of felonious driving if the prohibition were expanded to include reckless driving in a place open to the general public or generally accessible to motor vehicles as House Bill 4813 would do. The bills would likely increase the number of convictions for felonious

driving, and thus the number of driver license suspensions. The reinstatement fee for a driver license is \$125 and benefits the Department of State and various drunk driving-related funds.

The fiscal note further reports that under the bills, felonious driving would continue to be a Class G felony, which has a minimum sentence range of 0-3 months to 7-23 months. In most cases, offenders convicted of a Class G felony are subject to probation or incarceration in a local facility, because felonious driving has a maximum penalty of two years. The state incurs the cost of felony probation, estimated at \$4.23 per day, while local units incur the cost of incarceration, which varies between \$27 and \$62 per day. In the absence of data, if one assumed that five more offenders a year would be convicted of felonious driving and received the longest minimum sentence, given that the annual average cost of incarceration is \$22,000, the additional annual cost to the state would be \$1 million.

Further, Senate Bill 675 could result in increased costs to the extent that offenders could receive a longer sentence within the given range because felonious driving would be an offense against a person rather than an offense against public safety.

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 Bill 4813 and Senate Bill 675 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. Further, House Bill 4813 would use the term “serious impairment of a body function” instead of referring to a crippling injury. This parallels language used in many other statutes involving the operation of a motorized vehicle and so provides greater uniformity between various laws.

For:

Public Act 214 of 1931, the felonious driving statute, predates the Michigan Vehicle Code. House Bill 4813 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 4924 and 4925 would make only technical corrections to citations contained in 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 enactment of House Bill 4813.

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.

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.