

House Bill 4086 (Substitute H-4)
First Analysis (4-1-03)

Sponsor: Rep. Mary Ann Midaugh
Committee: Transportation

THE APPARENT PROBLEM:

In 1978 the legislature enacted eight bills to decriminalize many traffic offenses—Public Acts 510 through 517 of 1978—all of which went into effect on August 1, 1979. The following year, two additional bills were enacted, Public Acts 66 and 67 of 1979. See *BACKGROUND INFORMATION* below. At that time a new class of traffic violation—the civil infraction—was put in place, for which no imprisonment penalty could be imposed.

In contrast to criminal misdemeanors, violators of civil infractions are charged with ‘responsibility’ rather than ‘guilt’ for an offense, and consequently, contested cases are heard informally, usually before a magistrate or traffic referee, rather than a judge. The change from criminal to civil status does not affect points charged against a driver’s license for a specific violation. It does reduce the criminal stigma for minor traffic offenses, remove the threat of imprisonment, and eliminate the need for jury trials (as well as appointed counsel for indigent defendants), thus speeding adjudication in ways that lower costs in the court and corrections systems.

Some have noted that a relatively minor traffic offense that should be charged as a civil infraction rather than a misdemeanor is driving with expired registration plate tabs, and legislation has been introduced to that end.

THE CONTENT OF THE BILL:

House Bill 4086 would amend the Michigan Vehicle Code to revise the penalty that is imposed when a person drives with expired registration plate tabs, changing it from a misdemeanor to a civil infraction, unless the person was driving a commercial vehicle.

Currently under the law, a person who drives with expired registration plate tabs is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or by a fine of not more than \$100. However, if the vehicle is a commercial vehicle that is required to be registered according to

the schedule of elected gross vehicle weights, the fine cannot exceed \$500. The bill would retain these misdemeanor penalties for violators who drive commercial vehicles. In contrast, a person who drove with expired registration plate tabs in a noncommercial vehicle would be responsible for a civil infraction.

If enacted into law, the bill would go into effect September 1, 2003.

MCL 257.255

BACKGROUND INFORMATION:

According to an analysis completed by the House Legislative Analysis Section and dated 1-3-79, when the legislature moved to decriminalize traffic offenses in 1978, the following violations became civil infractions: failure to carry signed registration; missing license plate; failure to register new address within 10 days; sale of unauthorized traffic device to local authorities; failure to obey traffic signal; failure to stop at required place; failure to obey pedestrian signal (pedestrians); failure to obey flashing red or yellow signal; careless driving; speed violations; speed-load violations; right side of road violations; passing and lane violation; wrong way on a one-way street; improper turns and turn signal; right-of-way violations; bicycle and motorcycle violations; railroad crossing violations; failure to inform railroad of work equipment on tracks; stopping, standing, and parking violations; vehicle improperly unattended; selling on right-of-way; obstructing flow of traffic; obstructing driver’s view or control; coasting on down grade; following a fire truck; non-motorized, or low-power vehicle on limited access highway; driving over fire hose; ignoring school bus signal; sale or use of smoke or flame device on motorized vehicle; school bus violations (schools and bus drivers); defective equipment; and selected size, weight, or load violations.

Under the bills, major traffic offense such as reckless driving, driving under the influence or while

impaired, failure to stop at the scene of an accident, eluding a police officer, and drag racing continued to be criminal violations—as did carrying explosives; spilling a load on a highway, and tandem tanker violations. In addition, any threat to the overall integrity of the driver licensing system—such as failure to immediately replace a lost or illegible driver’s license—continued to be criminal violations.

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that to the extent that individuals driving with expired registration plate tabs are currently being sentenced to jail time, local correctional costs could be reduced by this bill. The fiscal impact is likely minimal. (3-23-03)

ARGUMENTS:

For:

Minor traffic violations—such as driving with expired license plate tabs—do not fall within the ordinary public perception of criminal acts, and to treat them as such can result in draconian penalties for generally law-abiding citizens whose rare hapless behavior deserves a more reasonable sanction. Citizens charged with such offences are often surprised to find themselves defendants within the criminal justice system, required to make a number of court appearances, and suffering social stigma as their cases are scheduled for hearing or trial, despite the fact that jail sentences are rarely imposed.

What is more, using the courts to adjudicate minor traffic offenses, and judges to hear contested traffic cases, is an expensive way to ensure justice. If charged as a criminal, the defendant faces the possibility of imprisonment, so contested cases must be heard by a judge, and defendants can demand a jury trial, while indigent defendants have the right to court-appointed counsel. A less costly approach is possible when violators are held responsible for civil infractions. Then their cases are customarily heard by a magistrate or local traffic referee, and counsel is not necessary.

Against:

When the legislature moved to decriminalize many minor traffic offenses in 1978 and 1979, major offenses continued to be criminal violations. Among those offences that remained criminal were any that posed a threat to the overall integrity of the driver licensing system—such as failure to immediately replace a lost or illegible driver’s license.

During the last legislative session and following the attack on the World Trade Center on September 11, 2001, homeland security laws were passed to tighten up access to the driver licensing system, and at that time legislators noted that driving upon the public roadways of the state is a serious responsibility that requires lawful behavior. This bill would weaken the integrity of Michigan’s driver licensing system—allowing drivers to drive their personal vehicles without current license plate tabs—thereby decriminalizing a serious violation of the law.

POSITIONS:

There are no positions on the bill.

Analyst: J. Hunault

■ 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.