

**NO PENALTY IF PROOF OF  
INSURANCE PROVIDED LATER**

**House Bill 4308 (Substitute H-5)  
First Analysis (12-9-03)**

**Sponsor: Rep. John Garfield  
Committee: Judiciary**

***THE APPARENT PROBLEM:***

A person who operates a motor vehicle that is not properly insured as required by state law is guilty of a misdemeanor offense under the Insurance Code and subject to a civil infraction under the Michigan Vehicle Code. Prior to 1996, people who drove without carrying proper proof of insurance in their vehicles were punished under the Michigan Vehicle Code differently from those who drove without any insurance at all. Since Public Act 287 of 1995 took effect in January of 1996, the law has not distinguished at all between these two groups. Like those who drive without insurance, the insured person who forgot to place the proof of insurance in the glove box must pay a \$25 assessment fee on top of a civil fine and court costs. In addition, as of October 1<sup>st</sup>, the insured driver must pay a driver responsibility fee for failure to produce proof of insurance of \$150 for two consecutive years.

Some people have also reported problems with insurance companies raising their insurance premiums after having received a citation for failure to produce proof of insurance. Apparently, this is due to the fact that an abstract of the court record is sent to the secretary of state and included in the person's driving record; reportedly, this abstract does not distinguish driving without proof of insurance (but having insurance) from driving without insurance, leading some insurers to believe that drivers have driven without valid insurance in force (hence, providing grounds for rates to be increased).

Moreover, some law enforcement officers apparently believe that drivers can still have the penalties waived if a valid proof of insurance is presented to the court and therefore do not always give drivers sufficient time to locate the proof of insurance certificate. That waiver was eliminated by the 1995 legislation.

Since 1996, many complaints have been received by law enforcement officers, courts, the secretary of state, and legislators from people who did have valid

insurance in force at the time they received a citation for not producing their proof of insurance. Citizens told by police officers that the fines will be waived when the proof of insurance is shown to the court or that the violation will not appear on their driving records are angered when they discover otherwise. Furthermore, court personnel report that since at least half (if not more) of the people seen in court for these violations were properly insured, the law creates much unnecessary work for staffs already affected by reductions in resources and personnel.

Legislation has therefore been introduced to once again distinguish between a person who has insurance but, for one reason or another, fails to place the proof of insurance in the vehicle from a person who chooses to not insure his or her vehicle by lightening the penalties for the former.

***THE CONTENT OF THE BILL:***

The bill would amend the Michigan Vehicle Code to eliminate penalties for failure to produce proof of insurance, allow – instead of require – an assessment fee of \$25, eliminate the driver responsibility fee for a driver who could not produce proof of insurance (as long as insurance was actually in force at the time) and double the driver responsibility fee for a driver who did not have insurance in effect at the time of a violation, and remove the \$10 cap on a civil fine for driving without insurance or failing to produce proof of insurance. The bill would take effect June 1, 2004.

Currently, an owner or operator of a motor vehicle who fails to produce evidence of insurance or who fails to have motor vehicle insurance as required by the Insurance Code is responsible for a civil infraction of up to \$10, a \$25 court assessment fee, court costs of up to \$100, and a driver responsibility fee of \$150 per year for two consecutive years. Instead, the bill would provide that if, before the appearance date on the citation, the person submitted proof to the court that the vehicle was properly

insured at the time of the violation, the court could not assess a fine or costs; the court could not forward an abstract of the court record to the SOS; and the court could assess a fee of \$25, payable to the court funding unit. In addition, the person would no longer have to pay the driver responsibility fee added earlier in the year by Public Act 165 of 2003.

The bill would also add a waiver to another section of the vehicle code similar to one for driving without proof of registration. The provision would specify that if a person had received a citation for failing to produce a certificate of insurance, the court would have to waive any fine, costs, and, except for the \$25 assessment fee, any other fee authorized under the act upon receipt of verification by the court that the person – before the appearance date on the citation – produced valid proof of insurance that was in effect at the time the violation occurred. A person who obtained insurance after the time of the violation would not be eligible for this waiver.

A person who was driving without the required level of insurance would still be responsible for a civil infraction, any costs imposed by a court, and the \$25 assessment fee. Currently, the civil fine is capped at \$10. This would be eliminated, thereby allowing a court to impose a fine of up to \$100. The bill would require that an abstract of the court record be forwarded to the SOS. Further, upon posting of the abstract that the person had been found guilty or determined responsible for driving without insurance, the SOS would have to assess a \$300 driver responsibility fee each year for two consecutive years.

MCL 257.328 et al.

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

The House Fiscal Agency reports that the fiscal impact is indeterminate. (12-8-03)

### ***ARGUMENTS:***

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

Currently, a person who has valid motor vehicle insurance in effect but who forgets to place the proof of insurance verification in the glove box is penalized the same as the person who chooses not to insure his or her vehicle or who, for one reason or another, allows the insurance to lapse. Abstracts of court records sent to the secretary of state do not distinguish between those who had insurance but couldn't produce proof of it (some people report that

officers don't give sufficient time to dig through the glove box to find the certificate) and those who have no insurance at all. Because of this, some citizens have reported that insurers have raised insurance rates or denied renewal because it looked to the insurer that the person had been driving with no insurance. Further, the driver responsibility fee created by Public Act 165 of 2003 imposes a fee of \$150 for two years regardless of whether valid insurance was in effect or not.

The bill would correct this inequity by properly penalizing those who fail to maintain required levels of insurance and those who do have their vehicles insured but who, for various reasons, cannot produce proof of that insurance to a law enforcement officer. Under the bill, a person having insurance would not have to pay the driver responsibility fee, the civil fee, or court costs. However, he or she may still have to pay a \$25 court assessment fee if a court chose to impose that fee, but that is a more appropriate reminder to always place the proof of insurance in the vehicle. In addition, the court could not send an abstract to the SOS; therefore, no record of the failure to produce proof of insurance would be included on a person's driving record.

It should be noted, though, that a person would have to submit verification that insurance was indeed in effect at the time of the violation before the appearance date listed on the ticket in order to avail himself or herself of the waiver of the fees, fines, and costs. As written, failure to do so, even if the person did have valid insurance, would subject him or her to the same penalties as driving without any insurance at all.

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

Most drivers cited for failure to produce proof of insurance do have valid insurance, but for some reason, were not able to produce it quickly enough to a law enforcement officer in order to avoid a citation. This results in a lot of what seems to be unnecessary work for court and SOS staff in reporting and processing information on drivers who did in fact have insurance. The bill's requirement that no abstract be sent to the SOS, and the elimination of the driver responsibility fee for those who did have valid insurance, will eliminate this kind of unnecessary work and allow for better utilization of court and SOS personnel during this time when many staffs are working short-handed. Further, the bill's requirement that courts waive the fines, costs, and other fees (except for the \$25 assessment fee) upon receipt of verification of insurance is similar to the

waiver in the vehicle code for failure to produce a valid registration certification.

***For:***

The bill would properly focus penalties on those who drive without insurance. Reportedly, some choose to pay the occasional fine because it is cheaper than maintaining insurance. Under the bill, the cap on civil fines would be lifted – allowing a civil fine of up to \$100, an abstract of the court record would be sent to the SOS and included on their driving records, and the driver responsibility fee would be doubled. This should act as an effective deterrent to driving without insurance and reduce the numbers of uninsured motorists on the roads.

***Against:***

One major reason people allow their insurance to lapse is because of the high cost of motor vehicle insurance. Auto insurance in some parts of the state, notably urban core areas, is extraordinarily high. Yet, by eliminating the \$10 cap on civil fines, the civil fine for driving without insurance (or a conviction of not providing proof of insurance) will increase to a maximum of \$100 under the code's general provision for civil fines. In addition, the bill would double the driver responsibility fee on an uninsured driver who cannot produce proof of insurance to \$300 for two consecutive years – a hardship for low-income individuals who may be dependent on their vehicle to get to and from work. Moreover, this driver responsibility fee is in addition to the \$500 per year fee for two years for not having insurance! Further, House Bill 5045, which has already passed the House, would amend the Insurance Code to increase the fine for operating an uninsured motor vehicle to not less than \$400 or more than \$1,000, double the current levels. Where the fine increases may be appropriate as a deterrent to those individuals who can afford insurance but choose not to insure their vehicles, the increased fines are too harsh for low-income individuals who have few resources.

Rather than financially punish those who can least afford it, more measures need to be explored to provide for affordable car insurance, especially for low-income persons who may have no other transportation options to get to and from work, doctors' appointments, and so forth. Some people would argue that before increasing the penalties on already overburdened drivers, the legislature should take a more comprehensive look at the way insurance premiums are determined.

***POSITIONS:***

Representatives of the Michigan Court Administrators Association testified in support of the bill. (12-3-03)

A representative of the Michigan State Police Troopers Association indicated support for the bill. (12-3-03)

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.