



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 4887 (Substitute H-3 as reported without amendment)  
Sponsor: Representative John Pastor  
House Committee: Transportation  
Senate Committee: Transportation

Date Completed: 2-19-04

### **RATIONALE**

Tow trucks working at accident scenes or assisting disabled vehicles often are stationary at the side of busy highways, where the risk of a high-speed impact with fast-moving vehicles is high. As a result, the working conditions can be quite dangerous for tow truck drivers. According to a representative of the Michigan Towing Association, five Michigan tow truck drivers were killed in a two-and-a-half-year period when they were struck by passing motorists. The Michigan Vehicle Code requires drivers to slow down and, if possible, move over one lane in order to give emergency response personnel and their vehicles a wide berth, helping to ensure their safety. Some people believe that tow trucks should be included as emergency vehicles that must be given ample clearance when parked at the side of the road.

### **CONTENT**

The bill would amend the Michigan Vehicle Code to include in the definition of "authorized emergency vehicle", for purposes of Section 653a, a road service vehicle giving a visual signal by means of a flashing, rotating, or oscillating red or amber light. "Road service vehicle" would mean a vehicle that was clearly marked and readily recognizable as a vehicle used to assist disabled vehicles. The bill would take effect 90 days after its effective date.

Under Section 653a, upon approaching and passing a stationary authorized emergency vehicle that is giving a visual signal by means of flashing, rotating, or oscillating red, blue, or white lights, the driver of an approaching vehicle must exhibit due care and caution by doing one of the following:

- On any public roadway with at least two adjacent lanes proceeding in the same direction of the emergency vehicle, proceed with caution and yield the right-of-way by moving into a lane at least one moving lane or two vehicle widths apart from the emergency vehicle.
- On any public roadway that does not have at least two adjacent lanes proceeding in the same direction as the emergency vehicle; or if the driver cannot move safely due to weather, road conditions, or the immediate presence of vehicular or pedestrian traffic, reduce and maintain a safe speed.

Under the Code, a person who does not move over or slow down when approaching and passing a stationary authorized emergency vehicle is guilty of a misdemeanor punishable by a maximum fine of \$500 and/or imprisonment for up to 90 days. If the person injures a police officer, firefighter, or other emergency response personnel in the immediate area of the emergency vehicle, the violator is guilty of a felony punishable by a maximum fine of \$1,000 and/or imprisonment for up to two years. If the person causes the death of a police officer, firefighter, or other emergency response personnel, he or she is guilty of a felony punishable by a maximum fine of \$7,500 and/or imprisonment for up to 15 years.

MCL 257.2

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Tow truck drivers must work every day under dangerous conditions. While they are working on the roadside, vehicles are passing them a foot away at speeds of 70 miles per hour or higher. Drivers must move to another lane or slow down when passing a police car or ambulance. By extending this courtesy and safety measure to wrecker operators, the bill could prevent injuries to both tow truck drivers and other motorists.

### **Opposing Argument**

Drivers attempting to move over for emergency vehicles sometimes can pose a safety hazard to other drivers. Emergency vehicles often are unexpected, and drivers can push others into the median or cause serious accidents if they try to move over without assessing whether it is safe to do so. Furthermore, the bill is unnecessary because most drivers will move over when they see flashing lights, as much for their own safety as for the safety of the emergency personnel. If a driver does not instinctively move to another lane, often it is due to a lack of thinking and not to bad intentions. The bill's impact on traffic flow and the creation of conflicts that lead to accidents should be taken into account.

The existing law already is difficult to enforce, and is further complicated when there is a conflict between the perceptions of a motorist and a police officer as to whether the motorist could have safely moved over. Many people do not even know they are supposed to move over under the existing law; the bill would provide another means to ticket unsuspecting motorists. In the fall of 2003, Lansing Police conducted a sting operation to catch motorists who did not move over for emergency vehicles. Between 300 and 400 drivers were ticketed in one week; many claimed they had never heard of the law.

**Response:** The sting operation shows that many people do not instinctively move to another lane when they see an emergency vehicle. When the original law was passed, the Office of Highway Safety Planning, the Secretary of State, and the Michigan State Police conducted an extensive public awareness campaign. The law also is included in the Secretary of State publication, "What Every Driver Must Know". The law requires a driver to move to another lane only if he or she can do so safely; in other cases, reducing

speed is acceptable. The bill would place an appropriate expectation on drivers to take notice of their surroundings and adjust their driving speed and actions accordingly. There is no difference between the life of an ambulance driver and the life of a tow truck driver, and no reason tow truck drivers should not be afforded the same level of safety.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government.

To the extent that it would increase the number of offenders convicted of the existing violation by expanding it to cover wreckers and operators of wreckers, the bill could increase State and local corrections costs. Local units of government would incur the additional costs of misdemeanor probation and incarceration in a local facility, which vary by county. The State would incur the cost of felony probation at an average annual cost of \$1,750 and the cost of incarceration in a State facility at an average annual cost of \$27,000.

Fiscal Analyst: Bethany Wicksall

H0304\s4887a

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.