



Senate Fiscal Agency  
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BILL ANALYSIS

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Senate Bill 234 (as enrolled)  
Sponsor: Senator Jud Gilbert, II  
Senate Committee: Transportation  
House Committee: Transportation

**PUBLIC ACT 1 of 2005**

Date Completed: 6-28-06

**RATIONALE**

The Michigan Vehicle Code contains a provision prohibiting sales and displays within State trunk line rights-of-way. Evidently, there were discrepancies between various offices of the Michigan Department of Transportation (MDOT) in the interpretation of this provision, and in 2004, one of the offices granted several businesses located in downtown Port Huron along M-25, a State trunk line highway, permits to place tables and chairs outside on the sidewalk. The Department later announced, however, that MDOT offices statewide should interpret the provision in question to mean that such activities were prohibited unconditionally, and informed those businesses that the permits would not be issued again in 2005. The sidewalk cafes were part of a comprehensive plan to revitalize downtown Port Huron by adding aesthetic value and boosting economic activity, and some people suggested that the businesses should be able to continue to offer outdoor dining, as long as public safety and efficiency are not compromised.

**CONTENT**

The bill amended the Michigan Vehicle Code to allow the Michigan Department of Transportation to issue a permit to a person, firm, or corporation to sell or display goods, wares, produce, fruit, vegetables, or merchandise within the right-of-way of a State trunk line highway, if the permitted activities do not create an unsafe situation or interfere with transportation along the highway. (Under the Code, except as otherwise provided, a person who sells or displays merchandise within a State trunk

line right-of-way is responsible for a civil infraction.)

As a condition of issuing a permit, MDOT must require the municipality with jurisdiction over the site to pass a resolution authorizing the permitted activities, and may require that the municipality agree to enforce compliance with the permit. The Department may charge a fee in an amount not greater than the administrative cost of issuing the permit. The bill specifies that the issuance of a permit does not confer any property right.

A permit holder who conducts activities in violation of the permit is responsible for a civil infraction and subject to a maximum fine of \$10. Each day that the permit holder violates the permit is a separate violation. The Department may limit or revoke a permit if the permit holder conducts activities that create an unsafe situation or interfere with transportation along the highway, or violates permit conditions.

The bill took effect on March 24, 2005.

MCL 257.676a & 257.907

**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**

The bill gives MDOT the statutory authority to issue permits that enable Port Huron businesses to continue operating sidewalk cafes, an integral part of the city's plan to

revitalize the downtown area. In 2004, when the original permits were issued, some businesses evidently made significant investments in patio furniture that they would not have been able to use again without the legislation. In a resolution encouraging legislative or administrative action, the Port Huron City Council stated, "...in an effort to have an exciting, vibrant downtown it is critical we have a pedestrian friendly atmosphere, one which boasts sidewalk dining and a variety of organized special events aimed at encouraging visitors and residents alike to dine, shop and live in our Victorian downtown...". The city has made various improvements in its quest to become more conducive to economic activity, and the sidewalk cafes will further draw people downtown to experience those improvements. While the situation in Port Huron was the impetus for this legislation, it also could benefit other communities with businesses along trunk line highways. Furthermore, the bill strikes a proper balance between economic growth and the public interest by requiring MDOT to take safety and efficiency issues into account, and allowing the Department to revoke the permits of business owners who are not in compliance.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

The bill will result in an indeterminate increase in State administrative costs associated with the permitting process. The additional costs will be covered by new fee revenue that the Michigan Department of Transportation collects for issuing the permits. The bill also may result in additional revenue associated with the civil fine of \$10.

Fiscal Analyst: Jessica Runnels

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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.