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BILL ANALYSIS



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House Bill 4210 (as reported without amendment)  
Sponsor: Representative John Stakoe  
House Committee: Judiciary  
Senate Committee: Judiciary

Date Completed: 3-10-05

### **RATIONALE**

Under the Michigan Vehicle Code, a driver who has been involved in an accident must stop at the scene and stay there until he or she has provided information to a police officer or the driver or occupants of the other vehicle. The requirements apply if a driver knows or has reason to believe that he or she has been involved in an accident resulting in the death of or injury to another person, or damage to a vehicle. These provisions were the subject of a July 2002 decision of the Michigan Court of Appeals, which addressed the issue of whether the prosecutor must prove that the driver knew or had reason to believe that the accident resulted in injury or death (*People v Lang*, 250 Mich App 565). According to the prosecutor in the case, proving this knowledge would be unreasonably difficult and requiring this proof would encourage drivers involved in accidents to flee in order to avoid learning the nature of the victim's injuries. The Court disagreed, however, and concluded that the statute requires a showing that the individual knew or had reason to believe that the accident resulted in injury to or the death of another person. Despite the Court's holding, many people agree with the prosecutor, and believe that a driver's knowledge of the results of the accident should not be an element of the offense.

### **CONTENT**

**The bill would amend provisions of the Michigan Vehicle Code to do the following:**

- **Delete references to a driver's knowledge or belief that an accident resulted in death, serious impairment of a body function, injury, or vehicle damage.**
- **Allow a driver, instead of stopping at the scene, to report the accident immediately to a police agency or officer, if the driver reasonably believed that remaining would result in further harm.**
- **Reduce the maximum fine for failing to stop at the scene of an accident that caused only damage to another vehicle.**

#### Failure to Stop

Under the Code, a driver who knows or has reason to believe that he or she has been involved in an accident resulting in serious impairment or death of a person must stop immediately at the scene of the accident and remain there until the requirements of Section 619 are fulfilled. Similarly, a driver who knows or has reason to believe that he or she has been involved in an accident resulting in injury, or resulting only in damage to a vehicle driven or attended by any person, must immediately stop at the scene and remain there until the requirements of Section 619 are fulfilled. (Section 619 requires the driver to give his or her name and address and the vehicle's registration number, and show his or her driver's license, to a police officer, the person struck, or the driver or occupants of a vehicle that is hit, and to assist an injured person in securing medical aid or transportation.)

Under the bill, the driver of a vehicle who knew or had reason to believe that he or she had been involved in an accident would have to stop immediately at the scene and remain there until fulfilling the requirements of Section 619. If there were a reasonable and honest belief that remaining at the scene would result in further harm, however, the driver could report the accident immediately to the nearest or most convenient police agency or officer to fulfill the provision-of-information requirements of Section 619.

### Penalties

Currently, if an accident results only in damage to a vehicle operated or attended by an individual, a driver who fails to stop is guilty of a misdemeanor with no specified penalty. (Under the Michigan Penal Code, a misdemeanor for which no other penalty is specified is punishable by up to 90 days' imprisonment and/or a maximum fine of \$500 (MCL 750.504).) The bill would prescribe a penalty of up to 90 days' imprisonment and/or a maximum fine of \$100.

The bill would retain the penalties for violations that involve death, serious impairment, or injury. A violation that involves death or serious impairment is a felony punishable by up to five years' imprisonment and/or a maximum fine of \$5,000; if the accident is caused by the person who fails to stop and results in the death of another person, however, the felony is punishable by up to 15 years' imprisonment and/or a maximum fine of \$10,000. A violation that involves injury to a person is a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000.

MCL 257.617-257.619

### **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**

As the prosecutor contended in *People v Lang*, the decision of the Court of Appeals places an unreasonable burden on the State to prove beyond a reasonable doubt that a driver knew about the injury or damage that resulted from an accident. Further, since

three separate sections of the law prescribe different penalties depending on whether death or serious impairment, injury, or vehicle damage resulted, the prosecutor must prove that the driver knew the exact nature of the injury or damage. In addition, drivers might flee the scene of an accident in order to remain ignorant of its consequences and avoid liability. The Court based its decision on the language of the statute itself, and concluded that "...the Legislature plainly and unambiguously intended that to convict an individual...", the prosecution must prove that he or she knew or had reason to believe that the accident resulted in injury or death. By deleting that element of the offense, the bill would require prosecutors to prove only that a driver knew or had reason to believe that he or she had been involved in an accident and failed to comply with the law. The bill also would remove drivers' incentive to flee the scene of an accident.

**Response:** According to the Court of Appeals, a driver may be found liable under the statute based not only on his or her actual knowledge of the nature of an accident, but also on his or her constructive knowledge--what the driver reasonably should have known given the circumstances surrounding the particular accident. Therefore, a prosecutor could sustain the burden of proof by introducing evidence of the circumstances to demonstrate that a driver had reason to believe that an accident resulted in an injury. Also, a driver could not escape liability merely by attempting to remain willfully ignorant.

#### **Opposing Argument**

The bill would require drivers to remain at an accident scene and exchange information in every case, including situations in which there was no reason to believe that the vehicle of the innocent driver was damaged. This could cause police officers to spend time and energy responding to minor accidents involving no damage, and could result in the unnecessary exchange of information between drivers.

Legislative Analyst: Suzanne Lowe

#### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government. According to the Department of Corrections Statistical Report, in 2002 there were 51

offenders convicted of failing to stop at an accident. Of those, 24 offenders received prison sentences, three received jail sentences, and 24 received probation or some other sentence. There are no data to indicate how many additional offenders would be convicted due to the proposed amendments. Local units incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. The State incurs the cost of felony probation at an average annual cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000.

Fiscal Analyst: Bethany Wicksall

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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.