

Testimony of Hon. Shelia R. Johnson
HB 4098 – To Repeal Driver Responsibility Act
Michigan House Judiciary Committee Meeting
June 19, 2009

Introduction

When the legislature enacted the driver responsibility fees program in 2003, the hope was to raise money for the state budget and to encourage safety by assessing “bad drivers.” The legislation has failed to achieve the intended result of promoting safety and has resulted in a disproportionate impact on the young, the unsophisticated, the lower income and the poor, which has creating a new class of poverty in Michigan: the driving poor.

Issues

1. **DR Fees are too harsh a penalty and do not adequately distinguish between drivers** – Courts punish offenders, using discretion, taking into account the facts and circumstances of the individual and the offense. In driving offenses the goal is to promote safety, while applying an appropriate and reasonable sanction. Revenue is a by product of the fines and costs assessed. The DRF’s primary goal is to raise money. It fails to distinguish between different classes of drivers and results in the harsh, extra taxation of all drivers, no matter how good or bad the record and no matter what the circumstance.

For example, a person with a good record may have in good faith, actually paid a 5 mph speeding ticket, but unwittingly failed to pay the license reinstatement fee, resulting in their license becoming suspended without their immediate knowledge. They are later stopped for Driving on a Suspended License and have to pay a \$500 DRF. By comparison another person who had numerous older DWLS tickets on their record, ignored paying them for years and now comes to Court to clear them up isn’t subject to DRF. Thus the DRF can result in an inequitable resulting penalty.

The DRF seeks to discourage “bad driving”, however it is applied in a manner that fails to distinguish that all offenses are not created equal. There is a clear distinction between bad driving offenses, such as: alcohol/drug related offenses, negligent homicide, failure to use due care causing injury or death, or license suspension due to poor driving record; and other suspended license offenses which result simply from the inability to pay outstanding citations or where a person simply forgot to renew an expired license. The former are truly “bad driving” offenses while the latter are not quality of driving offenses. In the latter offenses, persons are being result of

2. **DRF is a vicious cycle that promotes Driving on Suspended License** – It is difficult enough for people to pay court fines and court costs plus the myriad of state mandated fees. On a typical DWLS case written under local ordinance, I may order a \$300 fine. In addition, there is \$53 in state mandated minimum costs, \$50 state mandated Crime Victims fee and a \$45 state mandated clearance fee plus a \$500 DRF. That is a total of \$948 that is assessed of which \$648 or 68% is sent to the state mandated fees. Often, the fine assessed is less than \$300, which results in the person paying more in DRF than they do in the penalty payable to the court for the actual violation!

In these economic times, people cannot afford to pay DRF and they cannot afford to stop driving because they will lose their jobs.

The scenario regarding DRF is a vicious cycle, like a merry go round that the people cannot jump off of. It begins with the failure to pay or inability to pay one or two tickets. The tickets go into suspension, yet in many instances, the unsophisticated driver is unaware that the unpaid ticket will result in a license suspension. The person keeps driving, trying to get to work in order to raise money to pay the ticket and receives a DWLS violation. The new DWLS now has fines and costs, possible jail time, and a \$500 DRF, on top of the outstanding overdue fines on the suspended tickets which are assessed a 20% late fee. Instead of the person owing only the original civil infraction, which may have been only \$120.00, they now owe late fees on that unpaid ticket plus a reinstatement fee, which could now all amount to over \$200.00; plus the additional \$948 for the DWLS (see example of typical DWLS assessment above), which is well over \$1000.00, not including the second installment of the \$500.00 DRF. If the person was incarcerated, which could be the case under the State's hefty DWLS second or subsequent offense one year penalty, the person has lost the job and the only source of income to pay the DRF. Once incarcerated for repeated DWLS due to failure to pay the DRF, the person then loses his home, creditors began to swarm upon him with possible civil judgments. On top of it, the only family vehicle could potentially be immobilized due to the violation, which precludes the whole household from using transportation in order to work to make ends meet.

My court is in a central location to metropolitan Detroit. Numerous drivers from many jurisdictions pass thru Southfield via the Lodge Freeway (M-10) and the Walter Reuther Fwy, (I-696). Most jobs are not in Detroit and people have to travel numerous miles into various suburbs to work or to job hunt. Sadly, there is minimal public transportation and in some cases there is no transportation at all to traverse across the suburbs.

I have seen numerous cases, too many to quote, where a person has 15-35 suspensions and at 15-20 DRF's, amounting to over \$8000-\$10,000 in DRF's alone. The number one reason given for driving is going to work or a job interview. We penalize these drivers with a DRF on top of the criminal penalties, yet we provide no viable alternatives for travel. Most people admit that they will likely continue to take

the chance of driving to work due to lack of other options, even in the face of mounting costs and potential incarceration.

The faces of the driving poor on my docket are varied:

- A young mother who paid \$1600 in tickets and still owes \$1500 in DRF. She cannot drive, yet needs to drive, as she runs a daycare service and expressed a need to take children to school.
- A single mother who cannot pay several thousand dollars in DRF but is in school, trying to better herself to obtain employment. She may have to now drop out of school because she lives in Westland and her vocational school is in Southfield and she has no transportation – public or otherwise.
- Youth are extremely vulnerable, because they don't fully understand the ramifications of failing to pay tickets and they have no income. I recently had an 18 year old with \$2000.00 of DRF, who just graduated with no job. His mother lost a child the week before and was unavailable, so he used poor judgment and took a chance to take his sister on an errand. He will likely be one of the numerous young men who amass thousands of dollars of DRF with an inability to pay.
- A person on living in a shelter with his wife and 3 kids. He cannot afford to pay court fines and costs and keeps asking for time to pay. If this person cannot pay court fines and costs, how will he ever afford to also pay DR Fees and how do we think they will ever be able to get themselves out of this predicament?

3. **People with the least money are punished the most** – As stated earlier, there is no discretion in the assessment of the DRF so as you can see from the examples quoted, it is the unsophisticated and people with the least money often end up being punished the most. The unsophisticated do not understand the system, don't know what options they may have to deal with citations and they are wholly unaware of the consequences of their actions. Sadly these people may also be poor and unable to pay the dire penalties that result from their lack of sophistication.

4. **DRF has not achieved its safety objective** – In addition to raising money, the purpose of the DRF was to encourage people to driver more safely. Given that the number of people assessed, according to a Senate Fiscal Agency study, has increased 3 of the last 4 years from 2004 to 2007, it does not appear that the legislation has achieved its goal of encouraging people to drive more safely. (note: full year #'s for 2008 were not available).

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
# DRF Assessments	132,333	388,684	502,212	552,349

It is also my understanding that the number of people driving while intoxicated more than doubled between 2004 and 2007 from 20,327 to 44,594.

In our court, DWLS cases have increased 44% in the five years since the DRF was implemented, from 1643 cases in 2004 to 2366 cases in 2008, with varying spike of double increases in the interim years of 2005-2007. In short, we have implemented a system that sets people up for failure, as is proven by the numbers and my daily experience in court.

Closing

It appears that DRF assessments are increasing significantly in number rather than having a prophylactic effect of encouraging safety and deterring driving infractions. While the DRF generates \$100,000,000.00 each year, the State has collected only approximately 50 percent of the outstanding revenue on the DRF. The undeniable conclusion is that hundreds of thousands of drivers in Michigan have had their license suspended simply because they can't afford the exorbitant and unfair DRF. Local courts and cities and counties are spending time and money on trial for people hoping to avoid the harsh consequences of DRF or in incarcerating people who continue to drive due to inability to pay the DRF.

The income generated does not justify the negative consequences and the creation of a new class of poor who are in effect stymied from pursuing their ability to make ends meet. They are in a catch 22, where they either lose employment or drive. It is a no win situation where people are destined to continually fail. I urge the legislature to consider the dire consequences and the human effect of this legislation and to repeal it.