

# Legislative Analysis

---



## DWI/SOBRIETY INTERLOCK PILOT PROJECT

Mitchell Bean, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**Senate Bill 794 (Substitute S-1)**  
**Sponsor: Sen. Alan L. Cropsy**

**Senate Bill 795 (Substitute S-1)**  
**Sponsor: Sen. Patricia L. Birkholz**

**House Committee: Judiciary**  
**Senate Committee: Judiciary**

**Complete to 3-16-10**

### **A SUMMARY OF SENATE BILLS 794 AND 795 AS PASSED BY THE SENATE 2-9-10**

The bills would create a three-year pilot project that would enable a person convicted of certain drunk driving offenses to obtain a restricted driver license by fulfilling conditions specified in the legislation, such as admittance into a sobriety court and installation of an ignition interlock device on each vehicle the driver owned or operated. The bills are tied to each other, meaning that neither bill could take effect unless both were enacted. If enacted, the legislation would take effect January 1, 2011. The bill package is similar to one previously passed by the House – House Bills 5273 and 5474.

Under provisions of the Michigan Vehicle Code, the secretary of state is required to suspend or revoke a driver license for various traffic violations, including drunk driving. In addition, a person convicted of drunk or drugged driving faces sanctions that may include incarceration, community service, fines, restitution, and treatment for substance abuse.

In recent years, there has been a national trend to establish DWI or Sobriety Courts as a way to reduce recidivism for persons convicted of drunk driving. Similar to drug courts, Sobriety Courts typically involve misdemeanor cases and provide offenders with extensive supervision and treatment programs. DWI courts follow the 10 Key Components of Drug Courts and the Guiding Principles of DWI Courts as established by the National Center for DWI Courts (NCDC). The principles include performing a clinical assessment to determine the offender's needs, development of a treatment plan, increased supervision and court monitoring, program evaluation, and ensuring a sustainable program. Michigan has at least 26 such courts.

#### **Senate Bill 794**

The bill would add a new section to the Revised Judicature Act (MCL 600.1084) to create a DWI/Sobriety Court Interlock Pilot Project, beginning on January 1, 2011, and continuing for three years. Participating DWI/Sobriety Courts would have to comply with the 10 Guiding Principles of DWI Courts as promulgated by the National Association of Drug Court Professionals.

Only persons convicted of two or more violations of Section 625(1) or (3) of the Michigan Vehicle Code [operating while intoxicated (OWI) or while visibly impaired, respectively] would be considered for placement in the pilot project. The bill also would:

- Require participating DWI/Sobriety Courts to provide documentation to the Legislature, secretary of state (SOS), and the state supreme court regarding compliance with court-ordered conditions. The documentation would have to provide, among other things, the percentage of participants ordered to place an interlock device on their vehicles; the percentage who removed those devices without court approval; the percentage who tampered with the devices or operated a vehicle without a device; and the percentage convicted of a new OWI or while-visibly- impaired offense.
- Prior to SOS granting a restricted license under provisions of House Bill 5274, require the DWI/Sobriety Court judge to certify that the person was a participant in the DWI/Sobriety Court and had an interlock ignition device installed on each vehicle he or she owned or operated.
- Require the judge to immediately inform the SOS if a participant is terminated from the program, operated a vehicle without a device installed, or charged with a new OWI or visibly-impaired violation and require the SOS to revoke or suspend the restricted license, as applicable.

"DWI/Sobriety Courts" would mean the specialized court programs established within judicial circuits and districts throughout the state that are designed to reduce recidivism among alcohol offenders and that comply with the 10 Guiding Principles of DWI courts as promulgated by the National Association of Drug Court Professionals.

### **Senate Bill 795**

The bill would amend the Michigan Vehicle Code (257.219 et al.) to require the secretary of state to issue a restricted license to a person whose license was suspended, restricted, revoked, or denied based on two or more convictions of driving while intoxicated or while impaired. In order for a restricted license to be issued, the person's license would have to be suspended or revoked for 45 days, the driver would have to be admitted into a DWI/sobriety court, and an ignition interlock device would be installed on each motor vehicle the driver owned or operated. The bill also would do all of the following:

- Prohibit the issuance of a restricted license if the person were otherwise ineligible for a driver license, unless the ineligibility were based on certain violations.
- Allow a person with a restricted license issued under the bill to operate only a vehicle equipped with an ignition interlock device, to take any required driving skills test, and to drive to and from any combination of the person's residence, workplace, or school and a court-ordered alcohol or drug education or treatment program.
- Specify that a restricted license issued under the bill would be effective until a hearing officer ordered an unrestricted license.

- Prohibit a person issued a restricted license under the bill from being considered for an unrestricted license until the court notified the secretary of state that the person had successfully completed the DWI/sobriety court program or the minimum period of license sanction otherwise required had been completed, whichever was later.
- Require the secretary of state to summarily impose license sanctions, if notified by the DWI/sobriety court that a program participant was terminated from the program or had committed certain violations.
- After a person completed a DWI/sobriety court interlock pilot project program, require a restricted license issued under the bill to be suspended, revoked, or denied for certain violations.
- Require that all driver responsibility fees required to be assessed by the secretary of state for the conviction or convictions that led to a restricted license under the bill be held in abeyance during the time the person had a restricted license and was participating in the DWI/sobriety court interlock pilot project.
- Exempt a program participant's vehicle from immobilization or forfeiture requirements if he or she remained in good standing with the DWI/sobriety court pilot project program, successfully completed the program, and did not subsequently violate a Michigan law for which vehicle immobilization or forfeiture was a sanction.
- Amend numerous provisions amended by Public Act 463 of 2008 to clarify that those provisions do not take effect until October 31, 2010.

#### **BACKGROUND INFORMATION:**

Most of the serious injuries and deaths associated with drunk driving incidents are caused by repeat offenders, many of whom are driving on suspended or revoked licenses. Ignition interlock devices prevent a vehicle from starting if the operator has a bodily alcohol content (BAC) greater than 0.025 and are an effective measure to reduce repeat drunken driving incidents. Because studies support the contention that ignition interlock devices significantly reduce traffic fatalities caused by repeat offenders (by some estimates up to a 75 percent reduction in DWI arrests), over 40 states have adopted legislation to increase the use of the devices. In Michigan, despite the research, judges do not order the devices in all situations they could. In addition, of those individuals ordered to install an ignition interlock device, only about 20 percent comply.

#### **FISCAL IMPACT:**

Senate Bill 794 would have an indeterminate fiscal impact on the Judiciary. There would likely be increased administrative costs associated with more individuals participating in a DWI/Sobriety Court program. Costs would come from processing and monitoring participants. Moreover, local courts would be required to produce documentation (i.e. data reports) on the court's participants, which would also increase administrative costs for the local courts. However, it is unknown what percentage of those cost increases would be offset by fees and costs charged to program participants. The secretary of state

may realize negligible costs associated with processing restricted licenses for participants.

Senate Bill 795 would have an indeterminate fiscal impact on the Department of State. Any fiscal impact would be the result of administration, tracking individuals, and ensuring compliance with program requirements. The number of people that would participate in the pilot project is unknown. Moreover, while the driver responsibility fees would be held in abeyance, the state would still receive payment upon completion of the program. The bill would also exempt a participant's vehicle from forfeiture requirements if the participant remained in good standing with the sobriety court, completed the program, and did not violate further laws for which forfeiture is a penalty. Although local governments receive revenue from forfeitures, the impact to the locals under the provisions of the bill is indeterminate and likely negligible.

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Ben Gielczyk

---

■ 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.