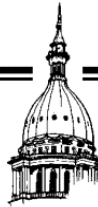




Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4093 (Substitute H-2 as reported without amendment)
House Bill 4131 (Substitute H-1 as reported without amendment)
Sponsor: Representative Andrea LaFontaine (H.B. 4093)
Representative Klint Kesto (H.B. 4131)
House Committee: Criminal Justice
Senate Committee: Judiciary

CONTENT

House Bill 4093 (H-2) would amend the Michigan Vehicle Code to delay until October 1, 2018, the date on which the bodily alcohol content (BAC) that constitutes operating while intoxicated will increase from 0.08 to 0.10.

The Code prohibits a person from operating a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, if he or she is operating while intoxicated. "Operating while intoxicated" means the person has a BAC of 0.08 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine (or meets other conditions under the definition).

Beginning October 1, 2013, the 0.08 BAC standard will increase to 0.10. (The 0.10 standard was in Michigan statute before September 30, 2003, the effective date of Public Act 61 of 2003, which lowered the BAC standard to 0.08.)

Under the bill, the definition of "operating while intoxicated" would continue to apply to a person who had a BAC of 0.08 or more until October 1, 2018, when the BAC standard would revert to 0.10.

House Bill 4131 (H-1) would amend the Code of Criminal Procedure to apply certain sentencing guidelines scores to drivers with a BAC of 0.08 or more until October 1, 2018, rather than October 1, 2013.

The bills are tie-barred.

MCL 257.625 et al. (H.B. 4093)
777.33 & 777.48 (H.B. 4131)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Transportation Funding. Failure to delay or remove the current sunset date of October 1, 2013, that will allow the BAC standard to increase to 0.10 will result in a loss to the Michigan Department of Transportation of an estimated \$50.0 million in annual Federal highway funding. Current Federal regulations require states to have in place a standard that sets the BAC at 0.08. Failure to do so will result in the withholding of 6% of federally apportioned National Highway Performance Program and Surface Transportation Program

funding. For Michigan, this equates to a withholding penalty of the estimated \$50.0 million annually. The bills would prevent this loss of funding.

Criminal Justice. Operating a vehicle while intoxicated is one of the most common crimes that result in felony dispositions in Michigan. In 2011, approximately 4,300 felony dispositions were related to this offense, and approximately 16% of those offenders served time in prison (while the remaining received jail, probation, or both). Therefore, changes to the law prohibiting driving while intoxicated have the potential to create a significant fiscal impact on both State and local government. If the law were allowed to revert to the 0.10 BAC standard from the current 0.08 BAC standard, there could be a reduction in the number of felony convictions and there could be a corresponding drop in the costs of incarceration and community supervision for both State and local governments. Additionally, there could be reductions in fine revenue, which otherwise would flow to public libraries. By delaying the sunset that will allow the BAC standard to increase, these bills would prevent the potential reduction in felony dispositions and prevent a potential reduction associated fine revenue. The impact on criminal justice costs is indeterminate, but likely would be negative as the costs of incarceration and community supervision generally outweigh the associated fine revenue.

Secretary of State. The Michigan Department of State has indicated that retaining the BAC at 0.08 would have relatively no fiscal impact on the Department's revenue.

Date Completed: 4-10-13

Fiscal Analyst: Joe Carrasco
Dan O'Connor

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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.