

Legislative Analysis



DRIVER RESPONSIBILITY FEES

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House Bill 5040 (H-1) as reported from committee

Analysis available at
<http://www.legislature.mi.gov>

Sponsor: Rep. Lee Chatfield

**House Bill 5041 (H-1) as reported
Sponsor: Rep. Sylvia A. Santana**

**House Bill 5045 (H-1) as reported
Sponsor: Rep. Phil Phelps**

**House Bill 5042 (H-1) as reported
Sponsor: Rep. Leslie Love**

**House Bill 5046 (H-2) as reported
Sponsor: Rep. Steve Marino**

**House Bill 5043 as reported
Sponsor: Rep. Roger Hauck**

**House Bill 5079 (H-1) as reported
Sponsor: Rep. Daire Rendon**

**House Bill 5044 (H-1) as reported
Sponsor: Rep. Joseph N. Bellino, Jr.**

**House Bill 5080 (H-1) as reported
Sponsor: Rep. Jewell Jones**

**Committee: Michigan Competitiveness
Complete to 10-30-17**

BRIEF SUMMARY:

Currently under the Motor Vehicle Code, Michigan drivers are assessed "Driver Responsibility Fees" after accumulating a certain number of points on their licenses or committing certain specific offenses. These fees are in addition to the standard penalties for committing the offenses. The fees were created by Public Act 165 of 2003, but some were reduced or eliminated in Public Act 255 of 2011, and the remainder are being phased-out by Public Act 250 of 2014.

Under the 2014 legislation, a driver who is assessed a driver responsibility fee as of October 1, 2016 is assessed at 50% of the fee level, and beginning October 1, 2018, the assessment will be assessed at 25% of the fee. Finally, beginning October 1, 2019, no new assessments can be charged; however, delinquent assessments may still be collected.

Taken together, House Bills 5040-5046, would end the collection of delinquent driver responsibility fees beginning September 30, 2018 (for individuals on a payment plan, collection would end for plans entered into up to the effective date of HB 5043), remove references to the program in existing statute, and provide for the accommodation of certain individuals currently participating in the driver responsibility fee program.

House Bills 5079 and 5080 would require the Department of Treasury to implement a workforce training payment program and offer it as an alternative to payment of certain assessed driver responsibility fees.

FISCAL IMPACT:

Relative to current law, the bills would reduce General Fund revenue by an estimated \$22.8 million in fiscal year (FY) 2017-18. Beginning in FY 2018-19 all revenue from Driver Responsibility Fees (DRFs) would be eliminated which would reduce future General Fund revenues by approximately \$35.0 million between FY 2018-19 and FY 2020-21; eliminate Fire Protection Grant funding of \$8.5 million annually beginning in FY 2018-19; and eliminate \$1.0 million appropriated annually to the Secretary of State for the Ignition Interlock Program beginning in FY 2018-19.

Revenue from license reinstatement fees would decrease by an estimated \$735,000 in FY 2017-18, but increase by \$16.3 million in FY 2018-19 due to newly eligible individuals reinstating their driver's license after their DRF debt is discharged on October 1, 2018. A more detailed fiscal impact is included below.

THE CONTENT OF THE BILL:

House Bill 5040 would amend the Michigan Vehicle Code (MCL 257.732a) to require that beginning September 30, 2018, no outstanding driver responsibility fees shall be collected. Further, the bill would state that an individual is not responsible for any outstanding driver responsibilities fees, or the requirement to complete community service in its place. Finally, an individual whose driving privileges were suspended due to nonpayment of fees would be eligible for a reinstatement of the operator's license, if otherwise compliant with the code.

The bill would also remove assessments that are no longer being assessed.

House Bill 5041 would amend the Code (proposed MCL 257.732d) to require the Department of Treasury, with input from the Departments of State, Corrections, and Health and Human Services, the Unemployment Insurance Agency and Michigan Works Agencies, to educate individuals affected by the changes proposed in **HB 5040**. The education would include informational materials and effective outreach.

The bill would appropriate \$160,000 for FY 2018-19 for Treasury to educate affected individuals

House Bill 5042 would amend the Code (MCL 257.732b), to reinstate community service as an alternative payment option and to stipulate that an individual would not be liable for any community service required of the driver responsibility program after September 30, 2018.

House Bill 5043 would amend the Code (MCL 257.732a) to provide that no outstanding responsibility fees shall be collected from individuals with payment plans entered into up to the effective date of the bill. Those individuals would have no liability for outstanding fees and, as above, would be eligible to seek a reinstatement of their operator's licenses.

House Bill 5044 would amend the Code (MCL 257.732a) to move the deadline to assess fees under the program from October 1, 2019 to October 1, 2018.

House Bill 5045 would amend Public Act 23 of 2008 ("Enhanced driver license and enhanced official state personal identification card act") to match the timeline included in the other

proposed bills. Currently under the act, the holder of an enhanced driver license is subject to every "licensing sanction" provided under the Michigan Vehicle Code. One such "licensing sanction" is the assessment of a driver responsibility fee, which under the bill would end as of October 1, 2018.

House Bill 5046 would amend the Code (MCL 257.304) to provide that if an individual participated in a DWI or sobriety court program that ends on or after October 1, 2018, the fees would be waived.

House Bill 5080 would add a section to the Code (proposed MCL 257.732c) which would require the Department of Treasury to create and administer a workforce training payment. The bill would allow Treasury to work to develop the program with a local workforce development board, a Michigan Works one-stop service center, or a training program offered by the Department of Corrections.

House Bill 5079 would amend the Code (MCL 257.732a and 257.732b) to provide that, beginning when the bill takes effect, no fee could be assessed for the following:

- Operating a vehicle with a suspended or revoked license, or other specified offenses related to that act under section 904 of the Code.
- Committing various offenses under the Insurance Code (failure to maintain auto insurance; failure to maintain certain insurance requirements for nonresidents, or failure to maintain insurance by the owner or registrant of a motorcycle).

However, if an individual was assessed a fee for either of those offenses, the bill would allow the individual to participate in 10 hours of a workforce training payment program (which would be instituted by HB 5080) as an alternative to payment of the fee or 10 hours of community service, as is currently allowed under statute. Likewise, participation in the workforce training payment program would be allowed if the individual had been assessed a fee for not having a valid operator's or chauffer's license or failure to produce insurance upon request of a police officer; these fees have not been assessed since September 30, 2012.

The bill would mirror the provisions in statute for the 10-hour community service option regarding: notice that the program is an option, completion of the application form by the individual, completion of the program, waiving of the fee upon verification of completion, and penalties for violation.

House Bills 5041, 5043, and 5079 would take effect 90 days after enactment. House Bill 5080 would take effect 30 days after enactment.

BACKGROUND INFORMATION:

House Bills 5040-5046 would accelerate the phase-out of driver responsibility fees in Michigan, which the Legal Aid Justice Center recently rated as one of the five harshest programs in the country. According to that report¹ Michigan currently has restrictions on multiple levels:

¹ "Driven by Dollars: A State-by-State Analysis of Driver's License Suspension Laws for Failure to Pay Court Debt" <https://www.justice4all.org/wp-content/uploads/2017/09/Driven-by-Dollars.pdf>

- In Michigan and 18 other states, suspending driver’s licenses of those who owe courts is mandatory instead of discretionary.
- Suspensions are indefinite instead of time-limited (along with 38 other states).
- Michigan is one of five states that employ mandatory indefinite suspension without regard to ability to pay.
- Suspensions apply to traffic infractions and to criminal court debt that has nothing to do with driving.

One of the bill sponsors has stated that driver responsibility fees trap people in a cycle of poverty, in which they are assessed new fees for nonpayment of existing debts. As stated above, 2014 legislation phased out the assessments, leading to their elimination in 2019. This legislation would instead end the program beginning October 1, 2018, and forgive outstanding fines owed by reportedly more than 300,000 Michigan drivers.

House Bills 5079 and 5080 would offer participation in a workforce training payment program as an alternative to payment of the fees.

FISCAL INFORMATION:

Relative to current law, the bills would reduce General Fund revenue by an estimated \$22.8 million in fiscal year (FY) 2017-18. Beginning in FY 2018-19, all revenue from Driver Responsibility Fees (DRFs) would be eliminated which would reduce future General Fund revenues by approximately \$35.0 million combined between FY 2018-19 and FY 2020-21; eliminate Fire Protection Grant funding of \$8.5 million annually beginning in FY 2018-19; and eliminate \$1.0 million appropriated to the Secretary of State for the Ignition Interlock Program annually beginning in FY 2018-19.

Revenue from license reinstatement fees would decrease by an estimated \$735,000 in FY 2017-18, but increase by an estimated \$16.3 million in FY 2018-19 due to newly eligible individuals reinstating their driver’s license after their DRF debt is discharged on October 1, 2018.

Current Law Revenue Estimates

The May Consensus Revenue Estimating Conference provided the following estimates for DRF revenue under current law:

Table 1
Driver Responsibility Fee Revenue Estimates – Current Law

	<u>FY 2016-17</u>	<u>FY 2017-18</u>	<u>FY 2018-19</u>	<u>FY 2019-20</u>	<u>FY 2020-21</u>
General Fund	\$62,500,000	\$43,500,000	\$25,500,000	\$8,000,000	\$1,500,000
Fire Protection Grants	8,500,000	8,500,000	8,500,000	8,500,000	8,500,000
TOTAL	\$71,000,000	\$52,000,000	\$34,000,000	\$16,500,000	\$10,000,000

Note: FYs 2019-20 and 2020-21 are Department of Treasury estimates.

As of August 2017, there were approximately \$637.1 million in outstanding DRFs. Collection rates for DRFs have never been above 60% so the delinquent balance has steadily increased since their introduction in 2003. Annually, approximately \$19.0 to \$20.0 million of the

outstanding delinquent fund balance is collected through Treasury collection methods (income tax offsets, calls, mailings, etc.). It is estimated that approximately \$19.0 million of the delinquent balance still would be collected in FY 2017-18.

DRF Revenue Impact

The provisions of HBs 5040, 5043, and 5079 would reduce revenues to the General Fund in FY 2017-18 by approximately \$22.8 million relative to current law. Fire Protection Grants would realize no impact due to revenues still exceeding the required distribution amounts in FY 2017-18. This estimate assumes the earliest possible effective date under the provisions of the bill, January 2018. The revenue impact would be \$1.8 to \$2.2 million less for each month the effective date is delayed beyond January 2018.

House Bill 5040 also would reduce future General Fund revenues by approximately \$35.0 million combined between FY 2018-19 and FY 2020-21 and eliminate Fire Protection Grant funding of \$8.5 million annually beginning in FY 2018-19. Table 2 provides a summary of the DRF revenue impact relative to current law revenue estimates in Table 1 above.

Table 2
Summary of DRF Revenue Impact Under Proposed Changes

	<u>FY 2017-18</u>	<u>FY 2018-19</u>	<u>FY 2019-20</u>	<u>FY 2020-21</u>
HBs 5040, 5043, & 5079	(\$22,800,000)	(\$34,000,000)	(\$16,500,000)	(\$10,000,000)
HBs 5042 & 5079	(500,000)	0	0	0
HBs 5046	(100,000)	0	0	0
TOTAL	(\$23,400,000)	(\$34,000,000)	(\$16,500,000)	(\$10,000,000)

It should be noted that all of the estimates are sensitive to individual actions regarding DRF avoidance, the effectiveness of Treasury collections, and the accuracy of current law revenue estimates.

All together, the bills' proposed changes to DRF revenues would result in the following revenue projections shown in Table 3:

Table 3
Revenue Projections Under Proposed Changes

	<u>FY 2017-18</u>	<u>FY 2018-19</u>	<u>FY 2019-20</u>
General Fund	\$20,100,000	\$0	\$0
Fire Protection Grants	8,500,000	0	0
TOTAL	\$28,600,000	\$0	\$0

Full Amnesty and DRF Elimination Impact

Under HB 5043, all persons in an installment plan would have the remainder of their DRF balance forgiven upon the effective date of the bill. New assessments between the effective date and October 1, 2018 (full amnesty) would continue to generate revenue, but at a much lower rate. HB 5079 would prohibit the \$500 assessments for *driving while license suspended/revoked/denied* and *no insurance under the insurance code* from being levied beginning on the effective date of the bill.

The full amnesty provisions of HB 5040 would provide an incentive for individuals receiving a new assessment to enter into a 24-month installment plan to minimize overall payments. An individual that would otherwise have paid the entire amount upfront, or paid over a shorter timeframe would have no incentive to do so knowing any remainder of their DRF would be forgiven beginning October 1, 2018. It should be noted that individuals wishing to keep their driver's license valid would need to enter into an installment plan, at a minimum, to prevent their license from being suspended.

Community Service/Workforce Training Alternative Payment Programs

Reinstating the community service program and adding participation in a workforce training program as an alternative to payment for *no proof of insurance* and *driving while license expired* DRFs would further reduce revenues in FY 2017-18 by approximately \$200,000. Originally, the alternative payment program was offered in calendar year 2015. Over that time approximately 4,700 accounts were adjusted and \$2.5 million in outstanding fees were waived. DRFs for *no proof of insurance* and *driving while license expired* were last levied on September 30, 2012. The most recent of the delinquent fees would be 5 years old. With the full amnesty offered on October 1, 2018, it is unlikely that this program would be significantly used.

The provisions of HB 5079 would expand the alternative payment program (community service and workforce training) to individuals with an outstanding DRF assessment for *driving while license suspended/revoked/denied* and *no insurance under the insurance code*. Any fiscal impact would be directly related to the number of individuals that participate in this alternative payment option. Any outstanding fees that were eliminated would reduce the outstanding delinquent balance and thereby reduce the pool of funds from which Treasury would be implementing income tax offsets in FY 2017-18. Presumably, the offering of amnesty on October 1, 2018 would minimize the number of people who would take advantage of this option. It is estimated that this would reduce revenues by \$300,000 in FY 2017-18.

DWI/sobriety court DRF

Individuals who enter a DWI/sobriety court program are assessed a DRF after completion of the program. Under HB 5046, if a person's participation in the DWI/sobriety court program is completed after the amnesty date of October 1, 2018, they would no longer be required to pay a DRF. This provision would further reduce expected revenues from DRFs in FY 2017-18 by approximately \$100,000.

License Reinstatement Fees

House Bills 5040, 5042, 5043, 5044, and 5046 would greatly increase the number of individuals who are eligible to reinstate their suspended driver's licenses. Each individual who reinstates his or her license is required to pay a \$125 license reinstatement fee. Revenue from each fee is distributed to four separate departments and funds as described in Table 4 below.

Table 4
Distribution of \$125 License Reinstatement Fee Revenue

Department	Amount	Fund	Description
Secretary of State (SOS), State	\$50	Reinstatement Fees	Supports various operations within the Secretary of State.
Transportation (MDOT)	\$35	Economic Development Fund	Funds highway, road, and street projects that support economic growth.
Judiciary	\$30	Drunk Driving Fund	Funds the drunk driving case-flow program which assists trial courts with timely disposition of drunk driving offense cases.
State Police (MSP)	\$10	Drunk Driving Prevention and Training Fund	Supports the purchase and maintenance of breath-alcohol testing equipment and training to law enforcement officers on using the equipment.

Significant changes in driver license reinstatements would be expected in both FYs 2017-18 and 2018-19 with a large increase expected in FY 2018-19. The actual number of individuals that would reinstate as a result of the bills and the amount of expected revenue would depend highly on two main factors: (1) the number of individuals with suspended driver’s licenses who have no other sanctions, restrictions or circumstances prohibiting them from reinstating their license and (2) the level of awareness of the bills’ provisions among the individuals eligible to reinstate their driver’s license.

Recent data suggests that there are approximately 317,000 individuals delinquent on paying their DRFs. Individuals with delinquent DRFs are required by law to have their licenses suspended until their fees are paid entirely, at which time they may reinstate. Certain individuals who have entered delinquency may establish an installment plan and have their license reinstated prior to paying off their delinquent account if they haven’t been delinquent before. There is currently no data available that would allow for an estimate on the number of individuals who have no other sanctions, restrictions, or circumstances prohibiting a reinstatement of their license and who would ultimately choose to reinstate their license. There is also no amnesty precedent from which to base a comparison.

Therefore, for the purpose of estimating new license reinstatement revenue as a result of the bills, estimates in Table 5 are calculated according to a range of possible participation rates showing the number of reinstatements assuming 25%, 50%, and 75% of individuals with delinquent DRFs and license suspensions choose to reinstate their licenses.

The total estimated revenue impact from changes to license reinstatement fees are summarized in Table 5 below. Estimated increases in license reinstatements for FY 2017-18 is offset by the expected decrease in collected fees associated with the waived payment plans. This decrease will continue into FY 2018-19 but is significantly smaller than the anticipated increase, resulting in a net increase.

Table 5
Estimated License Reinstatement Fee Revenue at Different Individual Participation Rates

Dept.	25% Participation 79,250 individuals		50% Participation 158,500 individuals		75% Participation 237,750 individuals	
	FY 2018	FY 2019	FY 2018	FY 2019	FY 2018	FY 2019
SOS	(\$294,000)	\$2,541,000	(\$294,000)	\$6,503,000	(\$294,000)	\$10,466,000
MDOT	(206,000)	1,778,000	(206,000)	4,552,000	(206,000)	7,326,000
Judiciary	(176,000)	1,524,000	(176,000)	3,902,000	(176,000)	6,279,000
MSP	(59,000)	508,100	(59,000)	1,300,600	(59,000)	2,093,000
Total	(\$735,000)	\$6,351,250	(\$735,000)	\$16,258,000	(\$735,000)	\$26,164,000

Community Service/Workforce Training Alternative Payment Programs

Furthermore, license reinstatement revenue collected in FY 2017-18 would depend on how many individuals with suspended licenses due to delinquent DRFs take advantage of the community service/workforce training and payment plan provisions in HBs 5042, 5043, and 5080. To estimate the impact of these contingencies, assumptions were applied to estimate the number of individuals who would take advantage of the provisions. Actual license reinstatements could differ greatly and would depend on the level of awareness individuals have regarding these opportunities and the level of demand for them.

As noted previously, the Community Service Program offered in 2015 had minimal participation. Considering that the current pool of eligible individuals is smaller than before, includes the same individuals as in 2015, and that the incentive to participate in the program under the proposed amnesty provisions would be less appealing than before, the number of participants is estimated to be less than in 2015 even with the inclusion of workforce training as an alternative under HB 5079. With these considerations it is estimated that HB 4052 would result in an estimated \$320,000 in license reinstatement revenue in FY 2017-18.

HB 5079 would expand the alternative payment program (community service and workforce training) to individuals with an outstanding DRF assessment for additional offenses. Considering the fees are higher and the eligible individuals have never been offered an alternative payment option before, it is estimated participation would be slightly higher than for those individuals offered the community service alternative payment option in 2015. Full amnesty on October 1, 2018 would diminish the incentive to participate. The resulting impact is an estimated \$375,000 in license reinstatement revenue in FY 2017-18.

Established Payment Plans Forgiveness – License Reinstatements

HB 5043 provides full amnesty for those who have established payment plans prior to the bill's effective date. Individuals who have had their license suspended and then established a payment plan are given the option of including the license reinstatement fee in the total amount which is paid down with each installment. This allows an individual to reinstate their license while paying a small portion of the license reinstatement fee each month. Under the amnesty provision of HB 5043, any remaining unpaid portion of a license reinstatement fee at the time of amnesty would also be forgiven. This would result in decreased license reinstatement fee revenue for both FYs 2017-18 and 2018-19. There is approximately \$2.9 million in license reinstatement fees rolled into existing payment plans.

Full Amnesty and DRF Elimination Impact

License reinstatement fee revenues would steadily decrease through FY 2020-21 as future expected suspensions and license reinstatements would be precluded by HBs 5040 and 5044. The decreases from payment plans are estimated to be \$151,000 in FY 2018-19, \$72,500 in FY 2019-20, and \$43,500 in FY 2020-21. An additional unknown decrease would come from precluded license reinstatement fees not paid through payment plans.

Department of Treasury DRF Outreach Program

House Bill 5041 would impose certain costs on Treasury associated with the creation and implementation of a DRF outreach program that would inform and educate individuals with outstanding DRF obligations affected by legislative changes associated with this bill package. The bill would appropriate \$160,000 GF/GP for programmatic costs.

Departments of State and Treasury Workforce Training Payment Program

House Bill 5080 would require Treasury to create and administer a workforce training payment program, increasing its administrative costs. Based on costs associated with the previously offered community service alternative payment program, Treasury could incur costs upwards of \$500,000 to administer the program. The bill includes no provision that would appropriate funds.

Secretary of State Breath Alcohol Ignition Interlock Device Program

The Department of State (DOS) is authorized to use \$1.0 million of DRFs for costs incurred implementing and administering duties associated with the Breath Alcohol Ignition Interlock Device (BAIID) program. DOS regularly collects and expends amounts close to the full \$1.0 million authorization. These funds would no longer be available starting in FY 2018-19 as required under HBs 5040 and 5044. DOS reports that expenses associated with administering BAIID will be lower in the coming years, but it is not yet known if its costs could be accommodated within its budget without revenue from DRFs.

ARGUMENTS:

For:

Proponents argue that the burden of DRFs falls disproportionately on poor people, who become trapped in a de facto debtor's prison—unable to pay the fees necessary to have their licenses reinstated and unable to drive to their jobs to earn money to pay the debt. Moreover, the burden may be felt most by people living in rural areas and small towns without public transit where driving is necessary to travel to work.

Supporters argue that the state's accounting for these fees as a collectible asset is misleading, as many of the people affected will never be able to pay them. In fact, according to committee testimony, over half of the assessments have been delinquent for more than six years.

Other supporters argue that repealing DRFs would have a positive impact on employment in Michigan. Members of the business community testified that low unemployment has led to a smaller talent pool for employers, and that pool is made smaller still when DRF drivers are eliminated from the job force. Over 300,000 Michiganders currently owe DRFs, and—as they would incur additional fees if they drive, including to work—are effectively eliminated from the job force. According to committee testimony, 10% of would-be entry-level workers have

DRF problems. Even if those affected by DRFs are able to get transportation to jobs, proponents argue, they may be unable to be promoted to positions that require driving.

Against:

Elimination of driver responsibility fees could have a significant negative fiscal effect, as described above in ***Fiscal Impact*** and ***Fiscal Information***. In addition to other effects, the bills would reduce General Fund revenue by an estimated \$22.8 million in FY 2017-18 and future General Fund revenues by approximately \$35.0 million between FY 2018-19 and FY 2020-21. Opponents argue that these expected revenues are built into the budget and that their elimination would affect necessary programs funded by the state.

POSITIONS:

Representatives of the following organizations testified in support of the bills:

- Michigan Secretary of State (10-11-17)
- Kinexus Group of Benton Harbor (10-11-17)
- Kroger Plastics (10-11-17)
- National Motorists Association (10-11-17)
- Office of Workforce Development for the city of Detroit (10-11-17)
- Michigan District Judges Association (10-11-17)
- Mackinac Center for Public Policy

The following organizations support the bills:

- Michigan League for Public Policy (10-11-17)
- City of Grand Rapids (10-11-17)
- Criminal Defense Attorneys of Michigan (10-18-17)
- National Association of Social Workers of Michigan (10-18-17)
- Michigan Community Action Agency (10-18-17)

A representative of the Michigan Townships Association testified and took no position on the bills. (10-11-17)

A representative of the Michigan Department of Treasury testified in opposition to the bills as introduced. (10-11-17)

Legislative Analysts: Jenny McInerney
Patrick Morris
Fiscal Analysts: Ben Gielczyk
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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.