

Legislative Analysis



EXPUNGE CERTAIN DUI FROM RECORD

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

House Bill 5029 (proposed substitute H-2)
Sponsor: Rep. Tenisha Yancey

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

House Bill 6453 (proposed substitute H-1)
Sponsor: Rep. Beau Matthew LaFave

Committee: Judiciary
Complete to 12-2-20

SUMMARY:

Taken together, the bills would allow a person to apply to have set aside, and allow a judge to set aside, a drunk or drugged driving offense, with some exceptions. A drunk or drugged driving offense causing the death or serious impairment of a bodily function of another person could not be set aside, nor could certain repeat offenses.

House Bill 5029 would amend 1965 PA 213, which provides for setting aside certain criminal convictions. Generally speaking, as used in the act, “operating while intoxicated” means a violation of the drunk and drugged driving laws (section 625 of the Michigan Vehicle Code) and alcohol-related offenses committed while operating a commercial vehicle (section 625m of the Michigan Vehicle Code), and a local ordinance, law of an Indian tribe, law of another state, or federal law that substantially corresponds to a violation of section 625 or 625m.

The bill would instead define the term to mean a violation of any of the referenced laws that is not a *specified operating while intoxicated offense*.

Specified operating while intoxicated offense would mean a violation of section 625(4) or (5) of the Michigan Vehicle Code **or** a violation of section 625 of that act that is punishable as provided under section 625(9)(b) or (c) of that act.

Section 625(4) of the Michigan Vehicle Code establishes penalties for operating a motor vehicle while intoxicated; while visibly impaired due to consumption of alcohol, a controlled substance, or other intoxicating substance, or a combination of any of those substances; or any bodily amount of a Schedule 1 controlled substance or cocaine causing the death of another person.

Section 625(5) of the Michigan Vehicle Code establishes penalties for doing any of the above causing serious impairment of a bodily function of another person.

Section 625(9)(b) of the Vehicle Code establishes penalties for a subsequent conviction within seven years of operating a motor vehicle while intoxicated or with any bodily

content of a Schedule 1 drug or cocaine. Section 625(9)(c) establishes penalties for a third or subsequent violation, regardless of the number of years that have elapsed since a prior conviction.

MCL 780.621

House Bill 6453 would amend a different section of the same act. Currently, a person cannot petition to have set aside, and a judge cannot set aside, a conviction for operating a motor vehicle while intoxicated.

The bill would revise this provision to instead prohibit setting aside a conviction for a *specified operating while intoxicated offense* committed by any person.

MCL 780.621c

The bills would take effect April 11, 2021, and they are tie-barred to each other, which means that neither could take effect unless both were enacted.

FISCAL IMPACT:

The bills could result in an indeterminate short-term increase in license reinstatement fee revenue resulting from the expungement of certain driving while intoxicated offenses and subsequent license reinstatements following expungement. The short-term revenue increase would presumably be later offset by fewer reinstatement fees being remitted at the time the individual would have paid the fee at the time the current law allows. This would result in no net revenue gain in the long-term.

Individuals convicted of an operating while intoxicated offense under section 625 of the Michigan Vehicle Code are required to have their driver license suspended and must pay a \$125 license reinstatement fee to have their license reinstated following the required suspension time for their offense. Revenue from license reinstatements is distributed to several state departments and allocated as described in Table 1, below.

In addition, House Bill 5029 would have an indeterminate fiscal impact on local units of government. The fiscal impact would be related to increased caseloads for courts and the additional resources required to process applications for conviction expungement.

Table 1
Distribution of License Reinstatement Revenue

Receiving Department/Entity	Amount	Fund Legal Basis (MCL)	Description
State	\$50	Reinstatement Fees 257.320e	Supports various operations within the Secretary of State.
Transportation	\$35	Economic Development Fund 247.902	Funds highway, road, and street projects that support economic growth.
Judiciary	\$30	Drunk Driving Fund 257.625h	Funds the drunk driving case-flow program which assists trial courts with timely disposition of drunk driving offense cases.
State Police	\$10	Drunk Driving Prevention and Training Fund 257.320e	Supports the purchase and maintenance of breath-alcohol testing equipment and training to law enforcement officers on using the equipment.

Legislative Analyst: Susan Stutzky
Fiscal Analysts: Robin Risko
Michael Cnossen

■ 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.