

DRIVING ON A SUSPENDED OR REVOKED LICENSE

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House Bill 5802 (H-1) as reported from committee
Sponsor: Rep. Mike Mueller

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

House Bill 5803 as reported from committee
Sponsor: Rep. Kyra Harris Bolden

House Bill 5804 as reported from committee
Sponsor: Rep. Gary Howell

1st Committee: Transportation
2nd Committee: Judiciary
Complete to 7-21-20

SUMMARY:

House Bills 5802, 5803, and 5804 would generally change, from a misdemeanor to a civil infraction, the penalty or sanction for violating the prohibition against driving on a license that was revoked, suspended, or denied. House Bill 5802 would also revise the maximum amounts of fines for certain civil infractions under the Michigan Vehicle Code.¹

House Bill 5802 would amend section 904 of the Michigan Vehicle Code, which prohibits a person from doing either of the following:

- Driving on a license that was revoked, suspended, or denied or for which the person never applied.
- Knowingly allowing a vehicle the person owns to be driven by a person who is violating the above prohibition.

Currently under the act, for a first such offense, the person is guilty of a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$500, or both. For a second or subsequent such offense, the person is guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of up to \$1,000, or both.

Under the bill, for a first violation, the person would be responsible for a state civil infraction and could be fined up to \$150. For a second violation, the person would be responsible for a state civil infraction and could be fined up to \$250. For a third or subsequent violation, the person would be guilty of a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$500, or both.

Currently under the act, for a first or any subsequent offense, the Secretary of State (SOS) must cancel the registration plates of the vehicle **unless** the vehicle was stolen or used with the permission of someone who did not knowingly let an unlicensed driver drive it.

¹ These revisions are related to changes proposed by House Bills 5685, 5686, 5688, 5690, 5691, and 5698.

Under the bill, for a first or second violation (but not a third or subsequent one), the SOS would have to cancel the plates of the vehicle **only if** it was stolen or used with the permission of someone who did not knowingly let an unlicensed driver drive it.

In addition, for a third or subsequent violation (but not for a first or second one), if the vehicle was used in the commission of a crime, if the person failed to appear for a citation issued under the act, or if the person failed to pay fines and costs under the act, the SOS would have to person's driver license or registration certificate.

Notwithstanding the above penalties, the bill provides that a person would be guilty of a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$500, or both, if he or she operated a motor vehicle in violation of the above prohibitions while his or her license was suspended for any of the following reasons:

- Failure to answer a notice to appear for a criminal violation under section 321a of the Michigan Vehicle Code.
- Any violation of section 625 of the code (drunk driving).
- Reckless driving under section 626 of the code.
- Any driving violation that causes the death, injury, or serious impairment of the body function of another individual under the code or a local ordinance corresponding to a provision of the code.

[Note: The above misdemeanor would not apply to a person operating a vehicle while his or her license was revoked or denied. The above misdemeanor also would not apply to a person who violated section 904 of the code by knowingly allowing his or her vehicle to be driven by a person whose license was suspended for any of the above reasons. As written, the misdemeanor would apply only to the individual operating the vehicle, not to the person who allowed that individual to do so.]

The bill would allow a law enforcement officer to impound the vehicle of an individual who violates section 904 of the code (which contains all of the provisions described above).

Civil infraction penalties

The bill would also amend section 907 of the Michigan Vehicle Code, which contains provisions related to civil infractions under the act, including prescribing the maximum amounts of civil fines that can be ordered for certain civil infraction violations.

The bill would add to this section the maximum civil fines for a first violation and second violation of the prohibition described above (\$150 and \$250, respectively).

The bill would also add that a civil fine under the act could not exceed \$150 for a violation of section 215, 226a, 233(6) or (7), 234, 243, 244, 255, 311, 801e, or 802(9) or (10) of the code; \$500 for a violation of section 256(2); or \$1,000 for a violation of section 233(2), (3), or (4).

MCL 257.317, 257.904, and 257.907

House Bill 5803 would amend the Code of Criminal Procedure to remove a provision that excepts a first offense of driving on a license that was suspended, revoked, or denied from reporting requirements concerning offenses that are misdemeanors under the Michigan Vehicle Code. Since, under HB 5802, these violations would no longer be misdemeanors, the exception would longer be needed, and the reporting requirements would still not apply. The bill is tie-barred to HB 5802, which means that it could not take effect unless HB 5802 were also enacted.

MCL 769.16a

House Bill 5804 would amend 1925 PA 289 to remove a provision that excepts a first offense of driving on a license that was suspended, revoked, or denied from requirements concerning the collection of a person's biometric data upon his or her arrest for a felony or for certain misdemeanors. Since, under HB 5802, these violations would no longer be misdemeanors, the exception would longer be needed, and the biometric data requirements would still not apply. The bill is tie-barred to HB 5802, which means that it could not take effect unless HB 5802 were also enacted.

MCL 28.243

FISCAL IMPACT:

House Bill 5802 would have an indeterminate fiscal impact on the state and on local units of government. Currently, a person who is convicted for driving a motor vehicle on a highway, when the privilege to drive has been suspended, revoked, or denied, is guilty of a misdemeanor for first, second, third, and subsequent violations. Under provisions of the bill, the person would be responsible for a civil infraction for first and second violations and guilty of a misdemeanor for third and subsequent violations. Also, under the bill, new misdemeanor and civil infraction penalties would be added for a number of other offenses.

Changing penalties for first- and second-time offenders from misdemeanors to civil infractions would impact costs to local county jails, revenue used to support public and county law libraries, and revenue deposited into the state's Justice System Fund. For new misdemeanor convictions, costs to local county jails and/or local misdemeanor probation supervision would be increased and could increase the amount of fine revenue received that would benefit libraries. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. For new civil infraction convictions, there would be an increase in revenue collected from the payment of penalties, which is used to support public and county law libraries.

Also, under section 907(13) of the Michigan Vehicle Code, for any civil fines ordered to be paid, the judge or district court magistrate is required to order the defendant to pay a justice system assessment of \$40 for each civil infraction determination, except for parking violations. Revenue deposited into the state's Justice System Fund supports various justice-related endeavors in the judicial branch, the Departments of State Police, Corrections,

Health and Human Services, and Treasury, and the Legislative Retirement System. We do not have a practical way to determine the number of violations that will occur under provisions of the bill, so cannot estimate the amount of additional revenue the state would collect.

The bill would have no fiscal impact on the Department of State.

House Bills 5803 and 5804 would not have a fiscal impact on any unit of state or local government.

POSITIONS:

Representatives of the following entities testified in support of the bills (6-3-20)
Michigan State Police
Prosecuting Attorneys Association of Michigan (PAAM)

A representative of the Michigan Association of Chiefs of Police testified in support with concerns on the bills. (6-11-20)

A representative of Street Democracy testified in support of HB 5802. (6-17-20)

The following entities indicated support for the bills:

Secretary of State (6-11-20)
State Court Administrative Office (6-11-20)
Michigan Sheriff's Association (6-24-20)
Criminal Defense Attorneys of Michigan (6-3-20)
American Civil Liberties Union of Michigan (6-3-20)
Michigan Association of Counties (6-11-20)
Safe and Just Michigan (6-3-20)
Michigan League for Public Policy (6-3-20)
Americans for Prosperity (6-11-20)
Mackinac Center (6-11-20)
National Association of Social Workers (6-11-20)
Michigan Catholic Conference (6-11-20)

The Office of the Attorney General indicated support for HB 5802. (5-27-20)

Representatives of the Detroit Justice Center testified with a neutral position on the bills. (6-17-20)

Legislative Analyst: E. Best
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.