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Senate Bill 943 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Mark Huizenga
Committee: Transportation and Infrastructure

Date Completed: 10-24-22

RATIONALE

Michigan's Office of Highway Safety Planning reports that 5,814 crashes and 20 deaths occurred in construction, maintenance, and utility work zones on Michigan roadways in 2021. The Michigan Vehicle Code prescribes specific speed limits for work zones on Michigan roadways (and fines for violating those limits) to reduce these crashes and protect workers in work zones. However, a recent court case has interpreted the Code's current definition of "work zone" that creates a work zone around a moving or stationary vehicle using a rotating light to apply only to a crew of workers and not an individual worker. Accordingly, it has been suggested that the definition of "work zone" be amended to specify that this type of work zone would apply to an individual worker.

CONTENT

The bill would amend the Michigan Vehicle Code to modify the definition of "work zone".

The Code defines "work zone" as a portion of a street or highway that meets any of the following:

- Is between a "work zone begins" sign and an "end road work" sign.
- For construction, maintenance, or utility work activities conducted by a work crew and more than one moving vehicle, is between a "begin work convoy" sign and an "end work convoy" sign.

In addition, for construction, maintenance, surveying, or utility work activities conducted by a work crew and one moving or stationary vehicle exhibiting a rotating beacon or strobe light, "work zone" means a portion of a street or highway that is between the following points:

- A point that is 150 feet behind the rear of the vehicle or that is the point from which the beacon or strobe light is first visible on the street or highway behind the vehicle, whichever is closer to the vehicle.
- A point that is 150 feet in front of the front of the vehicle or that is the point from which the beacon or strobe light is first visible on the street or highway in front of the vehicle, whichever is closer to the vehicle.

Under the bill, "work zone" instead would mean a portion of a street or highway open to vehicular traffic and adjacent to a barrier, berm, lane, or shoulder of a street or a highway within which construction, maintenance, public utility work, reconstruction, repair, resurfacing, or surveying is being conducted by one or more individuals and that meets any of the following:

- Is between a sign notifying the beginning of work and an "end road work" sign or, if no sign is posted, the last temporary traffic control device before the normal flow of traffic resumes.
- Is between a "begin work convoy" sign and an "end work convoy" sign.

In addition, if a moving or stationary vehicle or equipment exhibiting a rotating beacon or strobe light was used, "work zone" would mean a portion of street or highway described above that is between both of the following points:

- A point that is 150 feet behind the rear of the vehicle or equipment or that is the point from which the beacon or strobe light is first visible on the street or highway behind the vehicle or equipment, whichever is closer to the vehicle or equipment.
- A point that is 150 feet in front of the front of the vehicle or equipment or that is the point from which the beacon or strobe light is first visible on the street or highway in front of the vehicle or equipment, whichever is closer to the vehicle or equipment.

The bill would define "temporary traffic control device" as a traffic control device that is installed for a limited time period during construction, maintenance, public utility work, reconstruction, repair, resurfacing, or surveying as described above.

MCL 257.79d

BACKGROUND

The Code establishes traffic laws in the State, such as speed limits, the use of traffic signals, and the prohibition of reckless and intoxicated driving. An individual who violates these laws is responsible for certain penalties and fines as prescribed by the Code. An individual also can receive points on his or her driving record, and if an individual receives a specified number of points within a two-year period, the Secretary of State may reevaluate and suspend the individual's driving privileges. The Code generally increases these penalties and fines for violations that occur in a work zone. For example, the Code specifies that the maximum speed limit on a limited access freeway is 70 miles per hour, unless otherwise specified. An individual who violates this speed limit is responsible for a civil infraction and must pay a civil fine as provided by the Code. In a work zone, the Code doubles this fine.

Similarly, the Code establishes a speed limit of 45 miles per hour in a work zone on a highway for which a normal lane or part of a lane has been closed. If an individual exceeds that speed limit by fewer than 10 miles per hour, he or she receives a civil infraction and three points on his or her license. If an individual exceeds that speed limit by more than 10 miles per hour but fewer than 15 miles per hour, he or she receives a civil infraction and four points on his or her license. If an individual exceeds that speed limit by more than 15 miles per hour, he or she receives a civil infraction and five points on his or her license.

The Code also increases penalties and fines for more serious violations if they occur in work zones. These violations include excessive speeding, disregard for traffic signals, careless driving, and vehicular manslaughter, among others. If an individual commits one of these violations in a work zone and it results in the injury of another person, the individual is guilty of a misdemeanor punishable by a fine of not more than \$1,000 or imprisonment for not more than one year, or both. If the violation in a work zone results in the death of another person, the individual is guilty of a felony punishable by a fine of not more than \$7,500 or by imprisonment for not more than 15 years, or both.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to testimony before the Senate Committee on Transportation and Infrastructure, the part of the Code's current definition of "work zone" that creates a work zone around a moving or stationary vehicle using a rotating light has been interpreted as applying only to a crew of workers and not to an individual worker. Specifically, in *Michigan v. Boersma*, charges against the

defendant were waived because the language "for construction, maintenance, surveying, or utility work activities conducted by a work crew and one moving or stationary vehicle exhibiting a rotating beacon or strobe light" was interpreted to apply only to a work crew of more than one individual. However, the Michigan Department of Transportation reports that workers regularly perform maintenance or survey work on the side of the road by themselves and identify their zones with a moving or stationary vehicle using a rotating light. The current definition of "work zone" fails to protect these individual workers, and it should be modified to eliminate the reference to a "work crew". This would ensure the existence of a work zone and associated protections for individual road workers.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco, Jr.

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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.