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Senate Bill 617 (Substitute S-2 as passed by the Senate)  
Senate Bill 618 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Sean McCann (S.B. 617)  
Senator Veronica Klinefelt (S.B. 618)  
Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 8-14-24

## **RATIONALE**

In 2016, a person driving a truck in Kalamazoo hit nine cyclists. Five were killed and four were injured. The driver was charged with five counts of second-degree murder and four counts of reckless driving causing serious impairment. According to testimony before the Senate Committee on Civil Rights, Judiciary, and Public Safety, the severity of the charges against the driver are not the norm and current law generally places less culpability on drivers who injure non-motorized roadway users, with the victim often having to prove the event took place due to severe negligence. Often these drivers are charged only with a misdemeanor. Additionally, while traffic crashes in Michigan decreased from 2022 to 2023, crashes involving vulnerable roadway users like pedestrians and bicyclists increased by 10%.<sup>1</sup> Accordingly, it has been suggested to increase penalties to protect vulnerable roadway users.

## **CONTENT**

**Senate Bill 617 (S-2) would amend the Michigan Vehicle Code to do the following:**

- **Prescribe penalties for an individual who committed a moving violation against a vulnerable roadway user or individual operating an implement of husbandry on a highway that resulted in injury requiring inpatient treatment at a hospital or post-acute rehabilitation facility.**
- **Add a violation or attempted violation of causing serious harm to a vulnerable roadway user to the list of violations that could result in the Secretary of State (SOS) revoking an individual's license.**

**Senate Bill 618 (S-1) would amend the Michigan Vehicle Code to define "vulnerable roadway user".**

The bills are tie-barred, and each bill would take effect 90 days after its enactment. The bills also are tie-barred to House Bill 5223 and House Bill 5224, which would define "vulnerable transportation device" and prescribe sentencing guidelines for felonies proposed by Senate Bill 617, respectively.

### **Senate Bill 618 (S-1)**

Under the bill, "vulnerable roadway user" would mean any of the following:

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<sup>1</sup> Raymo, Dennis, "Overall crash numbers fell in 2023 but pedestrian and bike crashes rose", *MSP Newsroom*, July 10, 2024.

- A pedestrian.
- An individual using roller or inline skates.
- An individual using a non-motorized scooter or skateboard.
- An individual using a wheelchair.
- An individual riding a horse, pony, donkey, mule, or hinny (equine) or driving or riding an equine-drawn carriage.
- An individual operating or riding a vulnerable transportation device in compliance with the Code.
- A United States Postal Service employee or contractor operating a vehicle on that individual's rural postal route in the course of delivering mail or parcels.

("Vulnerable transportation device" would mean a device in, on, or by which an individual or property, or both, is or may be transported or drawn on a highway or street by human power, or by an electrical propulsion system with an average power of 750 watts or one horsepower and a maximum speed on a paved level surface of no more than 30 miles per hour. The term would include at least the following:

- An electric personal assistive mobility device, meaning a self-balancing non-tandem two-wheeled device, designed to transport only one person at a time, having an electrical propulsion system with an average power of 750 watts or one horsepower and a maximum speed on a paved level surface of not more than 15 miles per hour
- An electric skateboard, meaning a wheeled device that had a floorboard designed to be stood upon when riding that was no more than 60 inches long and 18 inches wide, was designed to transport only one person at a time, had an electrical propulsion system with power of no more than 2,500 watts, had a maximum speed on a paved level surface of not more than 25 miles per hour, and could have handlebars.
- An electric bicycle or a bicycle.)

### **Senate Bill 617 (S-2)**

Under the Michigan Vehicle Code, a person who commits a moving violation that has criminal penalties and as a result causes injury to a person operating an implement of husbandry on a highway in compliance with the Code is guilty of a misdemeanor punishable by a maximum of one year's imprisonment or a maximum fine of \$1,000, or both. Additionally, a person who commits a moving violation that has criminal penalties and as a result causes death to a person operating an implement of husbandry on a highway in compliance with the Code is guilty of a felony punishable by a maximum of 15 years' imprisonment or a maximum fine of \$7,500, or both. The bill specifies that these provisions would apply to an individual who committed a moving violation and as a result caused injury to a vulnerable roadway user.

Additionally, under the bill, an individual who committed a moving violation and as a result caused serious injury requiring inpatient treatment at a hospital or post-acute rehabilitation facility to a vulnerable roadway user or individual operating an implement of husbandry on a highway in compliance with the Code would be guilty of a felony punishable by a maximum of five years' imprisonment or a maximum fine of \$5,000, or both.

"Serious injury" would mean a physical injury that is not necessarily permanent, but that constitutes serious bodily disfigurement or that seriously impairs the functioning of a body organ or limb. The term would include one or more of the following:

- Loss of a limb or use of a limb.
- Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.
- Loss of an eye or ear or use of an eye or ear.

- Loss or substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state that lasts for more than three days.
- Measurable brain damage or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or hematoma.

The provisions described above would not prohibit an individual from being charged with, convicted of, or punished for a violation of any other law committed by the individual during the violation except for a violation of Section 626(4), which prescribes reckless driving penalties for a violation that caused the death of another individual.

The Code requires the SOS to record on an individual's driving record the date of a conviction or civil infraction determination and the associated number of points as prescribed by the Code. The bill would prescribe six points for a moving violation causing serious injury requiring inpatient treatment at a hospital or post-acute rehabilitation facility to a vulnerable roadway user or individual operating an implement of husbandry on a highway in compliance with the Code.

Under the Code, the SOS must revoke or deny issuance of an operator's or chauffeur's license under certain conditions, including any combination of two or more convictions within seven years of the following:

- A felony in which a motor vehicle was used.
- A violation or attempted violation in a work zone or school bus zone.
- A violation or attempted violation causing injury or death to a person operating an implement of husbandry on a highway in compliance with the Code.
- A violation or attempted violation of fleeing or eluding a visual or audible signal by a police or conservation officer to stop a motor vehicle or vessel.
- A violation or attempted violation that resulted in the death of another person while not stopping a motor vehicle or vessel for a visual or audible signal by a police or conservation officer.
- A violation or attempted violation for fleeing the scene of an accident.
- A violation or attempted violation of not exhibiting due care and caution while approaching or passing a stationary emergency vehicle causing injury or death to any response personnel.
- A violation or attempted violation of operating a motor vehicle without a license or with a revoked license resulting in injury or death to another individual.
- Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

The bill would add to the list a violation or attempted violation causing serious injury requiring inpatient treatment at a hospital or post-acute rehabilitation facility to a vulnerable roadway user or individual operating an implement of husbandry on a highway in compliance with the Code.

MCL 257.303 et al. (S.B. 617)

Proposed MCL 257.79g (S.B. 618)

### **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**

The bills would create appropriate punishments for individuals who drove recklessly and endangered the lives of vulnerable roadway users. Testimony before the Senate Committee on Civil Rights, Judiciary, and Public Safety indicated that drivers who cause vulnerable roadway users' death or injury often receive a misdemeanor penalty, which is disproportionate to the damage and pain they caused. The bills would ensure that vulnerable victims of reckless driving received justice in the form of proper consequences for the offender.

### **Supporting Argument**

The bill would increase flexibility for law enforcement officials and prosecutors when dealing with reckless drivers. According to testimony before the Senate Committee on Civil Rights, Judiciary, and Public Safety, drivers in car accidents involving vulnerable roadway users are punished too lightly or too severely. The bills would fill in the gap by creating penalties for drivers who endangered vulnerable roadway users, allowing offenders to be properly prosecuted and punished.

### **Supporting Argument**

Vulnerable roadway users deserve to share the road with motor vehicle drivers without fear of death or injury. Current law provides for a felony punishable by up to 15 years imprisonment and/or a fine of \$7,500 or both for a moving violation that caused death to a person operating an implement of husbandry, such as a piece of farm equipment. Additionally, Public Act 164 of 2023 was enacted to safeguard the lives of construction workers as they operate on freeway sites. Vulnerable roadway users should be regarded with similar deference and caution. Traffic crashes involving pedestrians or vulnerable roadway users may result from distracted driving or from a lack of traffic safety awareness, such as how to properly share the road with a cyclist.<sup>2</sup> The bills' penalties could encourage drivers to prioritize the wellbeing of vulnerable roadway users by driving attentively and learning how to share the road.

Legislative Analyst: Eleni Lionas

## **FISCAL IMPACT**

### **Senate Bill 617 (S-2)**

The bill would have a negative fiscal impact on State and local government. New felony arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities; however, it is unknown how many people would be prosecuted under provisions of the bill. The average cost to State government for felony probation supervision is approximately \$4,600 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$48,700. Per diem rates range from \$100 to \$431 per day (average per diem is \$135), depending on the security level of the facility. Any associated increase in fine revenue would increase funding to public libraries.

### **Senate Bill 618 (S-1)**

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

Fiscal Analyst: Joe Carrasco, Jr.  
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<sup>2</sup> *Id.*

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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.