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BILL ANALYSIS

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House Bill 4250 (Substitute H-5 as passed by the House)
House Bill 4251 (Substitute H-4 as passed by the House)
House Bill 4252 (Substitute H-2 as passed by the House)
Sponsor: Representative Matt Koleszar (H.B. 4250)
Representative Tyrone Carter (H.B. 4251)
Representative Mike Mueller (H.B. 4252)
House Committee: Transportation, Mobility and Infrastructure
Senate Committee: Civil Rights, Judiciary, Public Safety

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INTRODUCTION

Taken together, the bills would modify provisions of the Michigan Vehicle Code that prohibit and penalize texting while driving. Specifically, the bills would prohibit an individual from using a mobile electronic device while operating a motor vehicle and prescribe situations under which the prohibition would not apply, such as the use of a device for emergency purposes. The bills would increase civil fines for violating the modified prohibition and double the fines if the violation involved an accident. They also would allow a court to order an individual to complete a basic driver improvement course within a reasonable time as determined by the court if the individual violated the prohibition three or more times within a 3-year period.

FISCAL IMPACT

House Bill 4250 (H-5) could have a positive fiscal impact on the State and local units of government. The bill provides for the imposition of a civil fine of \$100 for a first violation and \$250 for a second or subsequent violation for drivers of a motor vehicle and fines of \$200 and \$500, respectively, for drivers of commercial vehicles or school buses. Revenue collected from civil fines is used to support local libraries. Additionally, \$10 of the civil fine would be deposited into the state Justice System Fund. This Fund supports justice-related activities across State government in the Departments of Corrections, Health and Human Services, State Police, and Treasury. The Fund supports justice-related issues in the Legislative Retirement System and the Judiciary. The amount of revenue to the State or for local libraries is indeterminate and dependent on the actual number of violations. The bill also would provide for the suspension of an individual's driver license after three or more violations in a three-year period. The Secretary of State (SOS) charges a fee of \$125 to reinstate a suspended driver license. The amount of additional revenue for the SOS would depend on the number of violations that result in a suspension and how many of those individuals eventually seek reinstatement.

House Bill 4251 (H-4) could have a positive fiscal impact on the SOS because of revenue from the \$100 fee that would be collected from each individual eligible and enrolled in a driver improvement course as specified in the bill. The amount of additional revenue is indeterminate and depends on the actual number of individuals that ultimately enroll in the course. All revenue received would be deposited in the Basic Driver Improvement Course Fund and funds could only be used to pay the costs of administering the program. House Bill 4252 (H-2) would have a minimal fiscal impact on the Department of State Police.

MCL 257.602b (H.B. 4250); 257.319b et al.(H.B. 4251)
257.602c et al. (H.B. 4252)

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CONTENT

House Bill 4250 (H-5) would amend Section 602b of the Michigan Vehicle Code to do the following:

- Modify provisions prohibiting an individual from texting on a cell phone while operating a motor vehicle to prohibit an individual from using a mobile electronic device while operating a motor vehicle or school bus.
- Prescribe situations under which the prohibition described above would not apply, including use of a mobile electronic device for emergency purposes.
- Modify penalties for a violation of Section 602b.
- Allow a court to order an individual to complete a basic driver improvement course within a reasonable time as determined by the court if that individual was responsible for three or more civil infractions under Section 602b within a 3-year period.
- Allow a law enforcement officer enforcing Section 602b to treat a violation as the primary or sole reason for issuing a citation to a driver.
- Specify that the bill's provisions would not apply beginning five years after its effective date.

House Bill 4251 (H-4) would amend the Michigan Vehicle Code to do the following:

- Require the SOS to suspend an individual's chauffeur's or operator's license as prescribed by Section 602b.
- Prescribe the number of points assigned to a person's driving record for a second or subsequent violation of Section 602b.
- Specify that an individual ordered by the court to complete a basic driver improvement course under Section 602b would have to do so, even if he or she was otherwise ineligible to take a basic driver improvement course under the Code.
- Require the SOS to enter the points prescribed under Section 320 of the Code for an individual who completed a court-ordered basic driver improvement court but was otherwise ineligible under the Code.

House Bill 4252 (H-2) would amend the Michigan Vehicle Code to do the following:

- Increase, from \$200 to \$250, the civil fine that could be ordered for a second or subsequent offense of Section 602b for a violation that did not involve an accident.
- For a violation of Section 602b that involved an accident, prescribe a civil fine of \$200 for a first offense and \$500 for a second or subsequent offense.
- For a violation of Section 602b that involved an individual driving a commercial vehicle or school bus, prescribe a civil fine of \$200 for a first offense and \$500 for a second and subsequent offense for a violation that did not cause an accident.
- For a violation of Section 602b that involved an individual driving a commercial vehicle or school bus, prescribe a civil fine of \$400 for a first offense and \$1,000 for a second and subsequent offense for a violation that caused an accident.
- Require the Department of State Police (MSP) to submit, 42 months after the bill's effective date, a report to the Governor and the Legislature that included specified information related to violations of Sections 602b and 602c.

The bills are tie-barred.

House Bill 4250 (H-5)

Definitions

Under the bill, "mobile electronic device" would mean an electronic device that is not permanently installed in a motor vehicle, including a device capable of text messaging, voice communication, entertainment, navigation, accessing the internet, or producing email. Mobile electronic device would not include either of the following:

- A radio designed for the Citizens Band Service or the Amateur Radio Service of the Federal Communications Commission or a commercial two-way radio communications device or equipment permanently installed in a motor vehicle.
- A medical device that was designed to be worn, including an insulin pump.

"Use a mobile electronic device" would mean using a mobile electronic device to do any task, including any of the following:

- Sending or receiving a telephone call.
- Sending, receiving, or reading a text message.
- Viewing, recording, or transmitting a video.
- Accessing, reading, or posting to a social networking site.
- Reaching for a mobile electronic device in a manner that requires a driver to maneuver so that the driver is no longer in a seated driving position, restrained by a seatbelt that is required under Federal regulations and adjusted in accordance with the vehicle manufacturer's instructions.

"Hold" would mean to physically support with any part of the hands, arms, or shoulders.

"Operate" would mean to drive or assume physical control of a motor vehicle on a public way, street, road, or highway, including operation while temporarily stationary because of traffic, road conditions, a traffic light, or a stop sign. Operate would not include a motor vehicle that was lawfully parked.

"Social networking site" would mean any web-based service that allows individuals to construct a profile within a founded system and communicate with other users of the site for social or amusement purposes.

Prohibitions

Section 602b of the Code prohibits a person from reading, manually typing, or sending a text message on a two-way communication device located in the person's hand or lap while operating a motor vehicle, a commercial motor vehicle, or a school bus. The Code also prohibits a person from using a hand-held mobile telephone to conduct a voice communication while operating a commercial motor vehicle or school bus on a highway.

The Section specifies that the prohibitions above do not apply to the use of a global positioning or navigation system affixed to the vehicle or to an individual who is using a two-way communication device or mobile telephone to do any of the following:

- Report a traffic accident, medical emergency, or serious road hazard.
- Report a situation in which the person believes his or her personal safety is in jeopardy.
- Report or avert the perpetration of a criminal act against the individual or another person.
- Carry out official duties as a police officer, firefighter, or emergency services provider.

- Operate an automated motor vehicle while testing or operating the vehicle without a human operator.

The Section also specifies that the prohibition on reading, manually typing, or sending a text message on a two-way communication device located in the person's hand or lap while operating a motor vehicle does not apply to a person using an on-demand automated motor vehicle network.

The bill would delete the provisions above. Instead, under the bill, except as otherwise provided, an individual could not hold or use a mobile electronic device while operating a motor vehicle, including a commercial vehicle or school bus. This prohibition would not apply to any of the following situations:

- The use of a mobile electronic device by a law enforcement officer, firefighter, emergency medical technician, paramedic, operator of an authorized emergency vehicle, or similarly engaged paid or volunteer public safety first responder during the performance of that individual's official duties, or a public utility employee or contractor acting within the scope of that individual's employment when responding to a public utility emergency.
- The use of a global positioning or navigation feature of a mobile electronic device if information were not entered by hand into the global positioning or navigation system feature of the mobile electronic device.
- The use of a mobile electronic device used for the sole purpose of continuously recording or broadcasting video inside or outside of a motor vehicle.
- The use of a mobile electronic device that was placed in a mount and used in any manner described above.

In addition, the bill's prohibition would not apply to the use of a mobile electronic device for emergency purposes or making an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity to report to appropriate authorities any of the following:

- A fire, traffic accident, serious road hazard, or medical or hazardous materials emergency.
- An operator of another motor vehicle who was driving in a reckless or otherwise unsafe manner or who appeared to be driving under the influence of alcohol or drugs.
- A crime being committed.

The bill's prohibition also would not apply to the use of a mobile electronic device in a voice-operated or hands-free mode if the operator of the motor vehicle did not use the operator's hands to operate the device, except for either of the following:

- Using a single button press, tap, or swipe to activate or deactivate a feature or function of the mobile electronic device or to select a telephone number or name.
- Using a mobile electronic device that was integrated into a motor vehicle and used the user interfaces that were permanently installed into the motor vehicle.

Under the bill, Section 602b would not apply to any of the following:

- A level 3, 4, or 5 automated driving system, as described in "J3016: Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles", April 2021 edition, published by SAE International, or an automated vehicle equipped with an automated driving system as described in this provision during testing or operation with the automated driving system engaged.

- Viewing or using in a hands-free manner a device mounted in a vehicle for displaying information related to testing or operating an automated driving system or automated technology.
- Operating, or programming the operation of, an automated motor vehicle while testing or operating the automated motor vehicle without a human operator while the automated driving system was engaged.

Penalties

Currently, a person who violates Section 602b is responsible for a civil infraction and must pay a civil fine as follows:

- For a first violation, \$100.
- For a second or subsequent violation, \$200.

Instead, under the bill, except as otherwise provided, an individual who violated Section 602b would be responsible for a civil infraction and would have to do the following:

- For a first violation, pay a \$100 civil fine or perform 16 hours of community services, or both.
- For a second or subsequent violation, pay a \$250 civil fine or perform 24 hours of community services, or both.

If an individual were involved in an accident at the time the individual violated Section 602b, the civil fine would be double the amount described above.

The bill would specify, except as otherwise provided, an individual who violated Section 602b and was driving a commercial vehicle or a school bus would be responsible for a civil infraction as follows:

- For a first violation, pay a \$200 civil fine or perform 32 hours of community service, or both.
- For a second and subsequent violation, pay a civil fine of \$500 or perform 48 hours of community service, or both.

If an individual driving a commercial vehicle or a school bus were involved in an accident at the time the individual violated Section 602b, the civil fine would have to be double the amount described above.

If an individual is responsible for three or more civil infractions under the bill within a 3-year period, a court may order the individual to complete a basic driver improvement course within a reasonable time as determined by the court. The bill specifies that this provision would not apply to a school bus or commercial motor vehicle.

A law enforcement officer enforcing Section 602b could treat a violation as the primary or sole reason for issuing a citation to a driver. A law enforcement officer could not search a motor vehicle or the driver or passenger in the motor vehicle solely because of a violation.

The bill specifies that all the provisions described above would not apply beginning five years after the bill's effective date.

House Bill 4251 (H-4)

Section 319b of the Code requires the SOS to suspend or revoke all commercial learners permits or vehicle group designations on an individual's operator's or chauffeur's license upon receiving notice of a conviction of certain violations. Among other periods of suspension, Section 319b requires a suspension for 120 days, to be served consecutively with a 60-day suspension of a lesser violation if the individual is convicted of or found responsible for three serious traffic violations within 36 months while operating a commercial motor vehicle. Under the bill, this period of suspension would apply to an individual who was responsible for three or more civil infractions under Section 602b within a 3-year period.

Section 320a of the Code requires the SOS to record the date of a civil infraction determination and the associated number of points based on criteria prescribed in the Section. The bill would prescribe two points for a third or subsequent violation of Section 602b and one point for a second violation of Section 602b.

Section 320d of the Code prohibits the SOS from entering the points corresponding to a moving violation committed in the State on an individual's driving record or make information concerning that violation available to any insurance company if the individual attends and successfully completes a basic driver improvement course and an approved sponsor provides a certificate of completion to the SOS within 60 days after the date when the SOS notified the individual they were eligible to take this course. The bill specifies that this provision would not apply to an individual who completed a court-ordered basic driver improvement course (as described under House Bill 4250 (H-5)).

An individual is ineligible to take a basic driver improvement course if any of the following apply:

- The violation occurred while the individual was operating a commercial motor vehicle or was licensed as a commercial driver while operating a noncommercial motor vehicle.
- The violation is a criminal offense.
- The violation is a violation for which four or more points may be assessed.
- The violation is a violation of specified violations of the Code.
- The individual was cited for more than one moving violation arising from the same incident.
- The individual's license was suspended in connection with the violation.
- The individual previously successfully completed a basic driver improvement course.
- The individual has three or more points on the individual's driving record.
- The individual's operator's or chauffeur's license is restricted, suspended, or revoked, or the individual was not issued an operator's or chauffeur's license.

An individual is not eligible to take a basic driver improvement course for a second or subsequent violation. The bill would specify that an individual who was ordered by a court to complete a basic driver improvement course would have to take the basic driver improvement course whether they were eligible under these provisions. The SOS would have to enter the points required for an individual who completed a court-ordered basic driver improvement course but was not otherwise eligible under these provisions.

House Bill 4252 (H-2)

Prohibition

Section 602c of the Code prohibits an individual issued a level 1 or level 2 graduated driver

license from using a cellular telephone while operating a motor vehicle upon a highway or street.

This prohibition does not apply to an individual using a voice-operated system that is integrated into the motor vehicle. The bill would delete this exemption. Also, under the bill, the prohibition described above would apply in addition to the requirements of Section 602b.

Setting Aside a Conviction or Civil Infraction

The Code specifies that a court may not submit, and the SOS must discard and may not enter on the master driving record, an abstract for a conviction or civil infraction determination for certain violations of the Code, including a violation of Section 602b or 602c. The bill would delete this provision.

Fines

Under the Section 907 of the Code, except as otherwise provided, a person found responsible or responsible "with explanation" for a civil infraction must pay certain costs ordered by a judge or district court magistrate and one or more civil fines, as applicable.

For a violation of Section 602b, the civil fine ordered may not be more than \$100 for a first offense and \$200 for a second or subsequent offense. This bill would specify that this provision would apply to an individual driver and the bill would increase, from \$200 to \$250, the civil fine for a second or subsequent offense of Section 602b for a violation that did not involve an accident. If the violation of Section 602b involved an accident, the civil fine would be \$200 for a first offense and \$500 for a second or subsequent offense.

Under the bill, a violation of a Section 602b by an individual driving a commercial motor vehicle or a school bus that did not involve an accident the civil fine would be \$200 for a first offense and \$500 for a second or subsequent offense. If the violation by an individual driving a commercial vehicle or a school bus involved an accident, the civil fine would be \$400 for a first offense and \$1,000 for a second or subsequent offense.

Report

The bill would require the MSP to submit, 42 months after the bill's effective date, a report, using available data, to the Senate Majority Leader, the Speaker of the House of Representatives, and the Governor that included all the following information related to violations of Sections 602b and 602c:

- The number of citations given.
- The race and ethnicity of the individuals given citations.
- The number of vehicle crashes, serious injuries, and deaths caused by violations of Sections 602b or 602c.

PREVIOUS LEGISLATION

(Please note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

House Bill 2450, House Bill 2451, and House Bill 2452 are companion bills to Senate Bill 239, Senate Bill 240, and Senate Bill 241, respectively.

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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.