

Senate Fiscal Agency  
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**SFA**



**BILL ANALYSIS**

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Senate Bill 852 (Substitute S-1 as passed by the Senate)  
Senate Bill 853 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator William Van Regenmorter  
Committee: Judiciary

Date Completed: 4-15-98

## **RATIONALE**

According to the National Inhalant Prevention Coalition, inhalants have been called “the cocaine of the ‘90s”, and inhalant abuse has been compared with marijuana use in the 1960s and ‘70s. The use of inhalants involves the intentional breathing of gas or vapors with the purpose of achieving a state of excitement, intoxication, or euphoria. Inhalants are found in many products commonly available in homes, schools, offices, and stores, such as glue, paint, air fresheners, spot remover, computer cleaning spray, nail polish remover, and aerosol cans of whipped cream. Inhalant use can cause a variety of short- and long-term effects, including memory loss, cognitive impairment, paralysis, vision loss, hallucinations, deafness, and lung damage. Some inhalants chemically block the oxygen-carrying capacity of blood, which can cause instant death.

The use of inhalants also can endanger motorists, since the driving ability of an inhalant user may be seriously impaired. A driver who uses an inhalant, however, is not subject to the laws that prohibit driving under the influence of alcohol or a controlled substance, since inhalants do not fall under the definition of “controlled substance”. Reportedly, in a number of incidents across the State, people have been stopped for suspected drunk driving but were found to be under the influence of inhalants, and could be charged only with reckless driving. Since these individuals can present as great a danger as drunk and drugged drivers, it has been suggested that inhalants should be included in the law’s drunk driving provisions.

## **CONTENT**

**Senate Bills 852 (S-1) and 853 (S-1) would amend the Crime Victim’s Rights Act and the Michigan Vehicle Code, respectively, to add to the Vehicle Code’s drunk driving prohibitions**

**the operation of a vehicle while the driver was impaired by or under the influence of a “chemical agent” and to include that offense in the Crime Victim’s Rights Act’s definition of “serious misdemeanor”.** The bills are tie-barred to each other, and would take effect May 1, 1998.

Senate Bill 853 (S-1) would define “chemical agent” as a substance containing or consisting of a chemical, anesthetic gas, or organic solvent, or any combination of a toxic chemical, anesthetic gas, or organic solvent, that was toxic or released toxic vapors. The term would include, but not be limited to, acetone, toluene, carbon tetrachloride, hydrocarbons, hydrocarbon derivatives, glue, and nitrous oxide.

### **Senate Bill 852 (S-1)**

Article 3 of the Crime Victim’s Rights Act outlines the rights of a victim of a “serious misdemeanor”. Among the offenses included in the definition of “serious misdemeanor” is operating a vehicle while under the influence of, or impaired by, intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another person’s property or physical injury or death to another individual.

The bill would add to that provision being impaired by or under the influence of a chemical agent, or any combination of intoxicating liquor, a controlled substance, or a chemical agent.

### **Senate Bill 853 (S-1)**

Under the Michigan Vehicle Code, it is a misdemeanor for a person, whether licensed or not, to operate a vehicle on a highway or other place open to the general public or generally

accessible to motor vehicles if any of the following applies:

- The driver is under the influence of intoxicating liquor, a controlled substance, or a combination of liquor and a controlled substance.
- The driver has an alcohol content of .1 gram or more per 100 milliliters of blood, 210 liters of breath, or 67 milliliters of urine.
- The driver's ability to operate the vehicle is visibly impaired due to the consumption of intoxicating liquor, a controlled substance, or a combination of liquor and a controlled substance.

It is also a misdemeanor for the owner of a vehicle or a person in charge or in control of a vehicle to authorize or knowingly permit the vehicle to be operated on a highway or other place open to the general public or generally accessible to motor vehicles by a person who is under the influence of intoxicating liquor, a controlled substance, or a combination of liquor and a controlled substance, or who has an alcohol content of .1 gram or more per 100 milliliters of blood, 210 liters of breath, or 67 milliliters of urine.

Under the bill, those misdemeanors would apply to a person who was under the influence of, or impaired by, intoxicating liquor, a controlled substance, a chemical agent, or any combination of intoxicating liquor, a controlled substance, or a chemical agent.

The bill also would include a chemical agent in the Code's provisions for enhanced penalties, including felony sanctions, for drivers who have prior convictions or who cause a death or serious impairment of a body function of another person when driving under the influence or while impaired. In addition, the bill would include reference to a chemical agent, along with intoxicating liquor and a controlled substance, in the Code's provisions for driver's license sanctions; consent to chemical breath analysis; admissibility of chemical analysis results as evidence; arrest without a warrant for drunk driving; and court deadlines for processing drunk driving cases.

Further, the bill includes provisions regarding license sanctions, restricted registration plates, vehicle immobilization, temporary plates, the payment of child support as a sanction, and drunk driving with a minor present, that reflect other drunk driving legislation that recently passed the Senate.

MCL 780.811 (S.B. 852)  
257.303 et al. (S.B. 853)

## **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**

Inhalants are widely available, inexpensive, legal to purchase, and easy to conceal. They can be obtained without the involvement of a dealer, and using them does not require elaborate or costly paraphernalia. These factors contribute to the popularity of inhalants among juveniles and adults, men and women, and members of any race, culture, or economic class. While the abuse of inhalants is nation-wide, Michigan reportedly is far above the national average regarding the percentage of youths who use inhalants. In addition, according to testimony before the Senate Judiciary Committee, road patrols encounter inhalant users on a daily basis, and poison control centers receive numerous calls about inhalants. Although the consequences of inhalant use can be just as devastating as the effects of drinking or illegal drug use, drivers under the influence of inhalants cannot be punished under the current drunk driving law. As a result, these drivers apparently are not charged or are charged only with reckless driving. The bills would rectify this situation by including chemical inhalants in the law's drunk driving provisions. Inhalant abusers would be subject to appropriate sanctions, and the risk to other motorists would be reduced.

**Response:** The issue of testing drivers for inhalants has been raised. Apparently, hospitals do not have the expertise or equipment to perform tests, and only two or three labs in the State can do the testing. Also, the testing is only for individual substances, rather than an overall screening. As a result, officers would rely on road tests (e.g., testing a driver's ability to balance or walk heel-to-toe), the driver's appearance and responses to questioning, and the presence of suspicious things in the car (such as whipped cream aerosol cans).

Legislative Analyst: S. Lowe

## **FISCAL IMPACT**

Senate Bills 852 (S-1) and 853 (S-1) would have an indeterminate fiscal impact on State and local government. There are no data currently available that would indicate how many more people might be convicted if chemical agents were added to drunk driving violations or how many people would be convicted if having passengers under the age of 16 would enhance the penalty for violations. Under the proposed legislation additional costs could be incurred or additional fine revenues received by State or local governments for incarceration and/or fines of offenders who committed the additional violations proposed in the legislation. Further, the State could incur additional costs for technical computer programming to implement the program.

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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.