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**SFA**



**BILL ANALYSIS**

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Senate Bills 556 through 559 (as enrolled)  
Sponsor: Senator William Van Regenmorter (Senate Bill 556)  
Senator Mike Rogers (Senate Bill 557)  
Senator Bev Hammerstrom (Senate Bill 558)  
Senator Walter H. North (Senate Bill 559)  
Senate Committee: Judiciary  
House Committee: Criminal Law and Corrections

**PUBLIC ACTS 73 through 76 of 1999**

Date Completed: 9-22-99

**CONTENT**

**Senate Bills 556 through 559 amend various acts to make revisions to drunk driving and driving without a license provisions enacted in 1998 (Public Acts 340-359 of 1998). Among other things, the bills make changes concerning vehicle immobilization; increase the portion of clearance fees paid to the Secretary of State; authorize magistrates to arraign and sentence on violations punishable by up to 93 days' imprisonment; and allow the issuance of appearance tickets for violations punishable by up to 93 days' imprisonment. Senate Bill 556 amends the Michigan Vehicle Code, Senate Bill 557 amends the Public Health Code, Senate Bill 558 amends the Revised Judicature Act, and Senate Bill 559 amends the Code of Criminal Procedure.**

The bills will take effect on October 1, 1999, and were tie-barred to each other and to Senate Bill 560 (Public Act 77 of 1999) and House Bills 4580 through 4585 (Public Acts 56-59 and 53 of 1999). Senate Bill 556 also was tie-barred to House Bill 4648 (Public Act 51 of 1999). (The tie-barred bills also will take effect on October 1, 1999.)

(Senate Bill 560 amends the bureau of criminal identification Act to make an exception to the requirement that a law enforcement agency immediately fingerprint a person who is arrested for a misdemeanor punishable by more than 92 days' imprisonment. House Bills 4580 through 4585 amend various acts to allow local units of government, unless otherwise provided by law, to provide for penalties of up to 93 days' imprisonment and/or a maximum fine of \$500 for a violation of a local ordinance that substantially correspond to a violation of State law punishable by up to 93 days' imprisonment. House Bill 4648 amends the Michigan Vehicle Code to revise vehicle immobilization provisions by mandating immobilization for certain violations; increasing minimum periods of

immobilization for repeat offenses; and extending the immobilization provisions to a vehicle's co-owner or co-lessee.)

**Senate Bill 556**

The bill does all of the following:

- Deletes "a temporary registration plate, vehicle immobilization, or vehicle forfeiture" from the list of information the Secretary of State is required to maintain in its computerized central file of individual, historical driving records.
- Includes a vehicle's co-owner or co-lessee in a provision requiring that the Secretary of State refuse issuance or transfer of registration or title, if the owner's or lessee's driver's license is suspended, revoked, or denied or the operator has never been licensed in Michigan, for a third or subsequent drunk driving violation or a fourth or subsequent suspension or revocation for driving without a license or while a license is suspended or revoked.
- Provides that the Secretary of State may not issue a registration for a vehicle for which a temporary registration plate is issued under the 1998 legislation until the violation resulting in the issuance of the temporary plate is adjudicated or the vehicle is transferred to a person who is subject to a use tax under the Use Tax Act (MCL 205.93).
- Prohibits the transfer or assignation of title or an interest in a vehicle to a person who is not subject to payment of a use tax during the time the vehicle is subject to registration denial or the period from adjudication to immobilization or forfeiture. (The Vehicle Code already applies this prohibition to the time a vehicle is subject to a temporary registration plate, vehicle forfeiture, or immobilization.)

- Removes from the list of persons to whom the Secretary of State may not issue a driver's license a person who has been convicted of or received a juvenile disposition for drunk driving with a passenger under 21 years old, and adds to that list a person who causes a death or serious impairment of a bodily function due to driving without a license or while his or her license is suspended or revoked. The bill also adds those offenses to the list of prior convictions that preclude the issuance of a driver's license, and that require revocation of a license.
- Adds drunk driving of a commercial vehicle (257.625m) to the conditions that allow the Secretary of State to require a licensee to be reexamined within 24 months after his or her probationary period, if the driver accumulates nine or more points within a two-year period.
- Increases the Secretary of State's share, from \$6 to 60%, of each \$25 clearance fee for: failure to answer a citation or pay a fine or cost, failure to answer multiple parking violations, and State civil infractions. (The Secretary of State will receive \$15 of each fee under the bill.)
- Removes the facts and circumstances relating to a license, designation, or indorsement revocation from the issues about which a court may take testimony and examine facts and circumstances in a grievance against the Secretary of State.
- Provides that Chapter VIII of the Vehicle Code, regarding penalties, will apply uniformly throughout the State and in all political subdivisions and municipalities. A local authority may not adopt, enact, or enforce a local law, charter provision, ordinance, rule, or regulation that conflicts with Chapter VIII. (The Vehicle Code already requires uniform application of Chapter VI, regarding obedience to and effect of traffic laws.)
- Provides that a person who knows or has reason to believe that he or she has been in an accident that resulted in injury or death to a person or damage to a driven or attended vehicle must give certain identifying information to a police officer or the person struck or the driver or occupant of the other vehicle. (Currently, that requirement applies only to giving the information to the person struck or the driver or occupant of the other vehicle.)
- Prohibits a person from authorizing or knowingly permitting a vehicle to be operated by someone whose ability to operate the vehicle is visibly impaired due to the consumption of liquor and/or a controlled substance.
- Revises the penalties for drunk driving while another person who is less than 16 years old

occupies the vehicle. The bill establishes lesser penalties if the underlying offense is a "zero tolerance" violation (i.e., driving by a person under 21 who has any bodily alcohol content).

- Provides that a temporary license or permit issued to a person who refused a chemical test or submitted to a test that revealed an unlawful alcohol content is valid, if the case is prosecuted, until the criminal charges are dismissed, the person is acquitted, or the person's license or permit is suspended, restricted, or revoked. (Currently, the temporary license or permit is valid until the criminal charges are dismissed; the person pleads guilty or nolo contendere, is found guilty, or is acquitted; or the person's license is suspended, whichever occurs earlier.)
- Specifies that the purpose of the Drunk Driving Caseflow Assistance Fund is to promote the timely disposition of cases involving all drunk driving offenses of the Vehicle Code as well as drunk boating, and drunk operation of an off-road vehicle (ORV), and all drunk snowmobiling offenses under the Natural Resources and Environmental Protection Act. (Currently, the purpose of the Fund is to promote the timely disposition of certain drunk driving and drunk snowmobiling cases.)
- Specifies that, if a prosecuting attorney intends to seek enhanced penalties for driving without a license or while a license is suspended or revoked based on the defendant's having prior convictions, the prosecutor must include on the complaint and information a statement listing the prior convictions. Prior convictions may be established by an abstract of conviction, a copy of the defendant's driving record, or an admission by the defendant.
- Provides that a temporary registration plate issued when a peace officer detains a driver for a violation for which vehicle immobilization is required is valid until the charges are dismissed or the person pleads guilty or nolo contendere, is found guilty, or is acquitted. The bill deletes a provision that the temporary plate is valid for 100 days unless extended by the court.
- Requires that, if a peace officer stops a vehicle that was being operated in violation of an immobilization order, the vehicle be impounded pending a court order. The court must require that the defendant or a person who provides immobilization services certify to the court that a vehicle is immobilized as required by the court.

#### **Senate Bill 557**

The Public Health Code provides for driver's license

sanctions and the issuance of a restricted license for violations of the Code's controlled substance and androgenic anabolic steroid provisions.

The bill specifies that, regardless of a court order issued under the Code's license sanction provision, the Secretary of State may not issue a restricted license to a person whose license is suspended for a controlled substance or steroid violation unless a restricted license is authorized under that provision and the person is otherwise eligible for a license.

The bill also provides that, while driving, a person who has a restricted license under the Code must carry proof of his or her destination and the hours of any employment, class, or other reason for traveling and display that proof upon a peace officer's request.

A restricted license is allowed under the Code for travel between a person's home and work location, a court-ordered alcohol or drug education or treatment program, the court probation department, a court-ordered community service program, or an educational institution at which the person is enrolled as a student. The bill also allows travel between a person's home and a place of regularly occurring medical treatment for a serious condition for the person or a member of his or her household or immediate family.

#### **Senate Bill 558**

The Revised Judicature Act provides that a district court magistrate has jurisdiction to arraign and sentence, upon a plea of guilty or nolo contendere, for violations of certain acts or parts of acts or a corresponding local ordinance, when authorized to do so by the chief judge of the district court and if the maximum permissible punishment does not exceed 90 days in jail and/or a fine.

Currently, a magistrate may arraign and sentence on violations of the Michigan Vehicle Code, except for the Code's drunk driving provisions, although a magistrate may arraign defendants and set bond with regard to drunk driving violations. The bill deletes and reenacts that provision, except that a magistrate will have the authority to arraign and sentence if the maximum permissible punishment does not exceed 93 days in jail and/or a fine.

Similarly, the Act allows a magistrate to arraign and sentence on violations of the Natural Resources and Environmental Protection Act's provisions pertaining to off-road vehicle (ORVs) and snowmobiles. The bill deleted and reenacted those provisions, except that a magistrate will have the authority to arraign and sentence if the maximum permissible punishment does not exceed 93 days in jail and/or a fine. Also, as with drunk driving, that authority will not extend to drunk operation of an ORV or snowmobile, although

a magistrate may arraign defendants and set bond with regard to those violations.

#### **Senate Bill 559**

The Code of Criminal Procedure allows an "appearance ticket" to be issued for a misdemeanor or ordinance violation for which the maximum permissible penalty does not exceed 92 days in jail and a \$500 fine. "Appearance ticket" means a complaint or written notice issued and subscribed by a police officer or other public servant authorized by law or ordinance to issue it, directing a designated person to appear in a designated local criminal court at a designated future time in connection with his or her alleged commission of a designated violation of a State law or local ordinance for which, except as otherwise provided in the Code, the maximum permissible penalty does not exceed 90 days in jail and a fine of \$500. The bill changed the definition to apply to violations for which the penalty does not exceed 93 days and/or a fine.

The bill prohibits the issuance of an appearance ticket for any of the following:

- A person arrested for simple or aggravated assault, if the victim is the offender's spouse or former spouse, a person who has a child in common with the offender, or a person residing or having resided in the same household as the offender.
- A person subject to detention for violating a personal protection order.
- A person subject to a mandatory period of confinement, condition of bond, or other condition of release until he or she meets that requirement or condition.

MCL 257.204a et al. (S.B. 556)  
333.7408a (S.B. 557)  
600.8511 (S.B. 558)  
761.1 et al. (S.B. 559)

Legislative Analyst: P. Affholter

#### **FISCAL IMPACT**

#### **Senate Bill 556**

The bill makes technical revisions to the repeat driving offender legislative package that was passed in 1998. Senate Bill 556 changes the portion of the driver license clearance fee that the Department of State collects from \$6 to 60% of the amount of the fee. The fee is \$25. Therefore, \$15 from each paid clearance fee will be distributed to the Department. This amounts to an increase of \$9 for each fee paid to the Department. It is unknown how many drivers will pay the clearance fee. The fiscal impact of this provision is indeterminate. However, the Legislature

appropriated \$1,748,600 in an FY 1998-99 supplemental and \$2,479,000 in the FY 1999-2000 General Government appropriation bill to implement and maintain all facets of the repeat offender legislation.

**Senate Bill 557**

The bill revises some requirements of the comprehensive repeat offender legislation signed into law in 1998. The fiscal impact of these revisions is indeterminate.

**Senate Bill 558**

The bill allows magistrates to continue to arraign and sentence certain cases, thereby resulting in administrative savings to local courts.

**Senate Bill 559**

The bill will have a minimal fiscal impact on State and local law enforcement agencies.

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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.