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BILL ANALYSIS



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Senate Bill 509 (as enrolled)  
Sponsor: Senator Jud Gilbert, II  
Senate Committee: Transportation  
House Committee: Transportation

**PUBLIC ACT 165 of 2003**

Date Completed: 9-11-03

**RATIONALE**

Earlier this year, a *Detroit News* article highlighted the problem of drivers who repeatedly violate traffic safety laws (3-30-03). Reportedly, over the last eight years, 1,822 people, an average of four per week, have died in Michigan in accidents caused by drivers whose records contained moving violations, serious accidents, drunken driving convictions, or license suspensions. Michigan ranks fourth among the states for this type of fatality, according to the article. Some people believe that assessing a "driver responsibility fee" on people who have seven or more points on their records or who commit serious moving violations should be a deterrent to dangerous drivers.

**CONTENT**

**The bill amends the Michigan Vehicle Code to do the following:**

- **Impose a driver responsibility fee of \$100 on drivers who accumulate seven or more points within two years, with an additional \$50 fee for each point above seven.**
- **Impose a fee of \$150, \$500, or \$1,000 on drivers who are convicted of certain moving violations.**
- **Create the Fire Protection Fund within the State Treasury, and appropriate \$3.5 million from the Fund to the Department of Consumer and Industry Services (DCIS) for fire protection grants in fiscal year 2003-04.**
- **Require the driver responsibility fees to be distributed between the Fire Protection Fund and the General Fund.**

The bill will take effect on October 1, 2003.

Driver Responsibility Fee

Under the bill, if a licensed or unlicensed driver accumulates seven points on his or her driving record within a two-year period, for a violation not subject to a \$150, \$500, or \$1,000 fee, the driver must be assessed a \$100 driver responsibility fee. For each additional point above seven, the driver must be assessed an additional \$50. The Secretary of State (SOS) must collect the fee once each year that the point total is at least seven.

Additionally, the SOS must assess the following driver responsibility fees each year for two consecutive years, upon the posting of an abstract that an individual has been found guilty of any of the following:

\$1,000

- Manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle, off-road vehicle (ORV), or snowmobile.
- A moving violation subject to criminal penalties that results in injury or death to a person working in a construction zone or operating an implement of husbandry on a highway; or causing injury or death to a police officer, fire-fighter, or other emergency response personnel in the immediate area of a stationary authorized emergency vehicle.
- Operating a motor vehicle or ORV under the influence of alcohol or a controlled substance (OUIL); or causing the death or serious impairment of a body function of another person while driving under the influence or while visibly impaired due to the consumption of alcohol or a controlled substance (OWI).

- Failing to stop and disclose identity at the scene of an accident when required by law.
- Fleeing or eluding an officer.

\$500

- OWI.
- Driving with any bodily alcohol content if under the age of 21.
- OUIL or OWI with a passenger under 16.
- Reckless driving.
- Driving with a suspended or revoked license or registration certificate.
- Driving a motor vehicle or motorcycle without insurance.

\$150

- Driving without a valid license, or possessing more than one valid driver's license.
- Failing to produce proof of insurance upon request by a police officer, or knowingly providing false evidence of insurance.

The SOS must mail notice of the fee to the driver, who then will have 30 days to pay the fee. If payment is not received within 30 days, the SOS must send a second notice indicating that driving privileges will be suspended if the payment is not received within the next 30 days. For amounts over \$500, the SOS may authorize an installment plan for up to 12 months. If payment is not received or an installment plan is not established after the time limit required by the second notice expires, the SOS must suspend driving privileges until the assessment and any other fees prescribed by the Code are paid.

A fee may be assessed only for points assigned after the bill's effective date.

Fire Protection Fund

The bill creates the Fire Protection Fund within the State Treasury. The State Treasurer may receive money or other assets from any source for deposit into the Fund. The Treasurer must direct investment of the Fund, and credit to it interest and earnings from Fund investments. Money in the Fund at the close of the fiscal year may not lapse to the General Fund.

The DCIS must spend money from the Fire Protection Fund, upon appropriation, only for

fire protection grants to cities, villages, and townships with State-owned facilities for fire services, as provided in Public Act 289 of 1977. (That Act requires the State Treasurer to make payments from the General Fund to municipalities that provide fire protection services for State facilities located in those municipalities.)

The bill specifies that, for fiscal year 2003-2004, \$3.5 million is appropriated from the Fund to the DCIS for this purpose.

Distribution of Driver Responsibility Fees

The bill requires the SOS to transmit the collected driver responsibility fees to the State Treasurer. The Treasurer must credit the fee money received in each fiscal year as follows:

- The first \$65 million must go to the General Fund.
- If more than \$65 million is collected, the amount collected in excess of \$65 million up to \$68.5 million must go to the Fire Protection Fund.
- If more than \$100 million is collected, the amount collected in excess of \$100 million up to \$105 million must go to the Fire Protection Fund.
- Any remaining revenue must go to the General Fund.

MCL 257.732a

**BACKGROUND**

The State of New Jersey enacted a Motor Vehicle Surcharge Program in the mid-1980s. Under this program, the state's Motor Vehicle Services Division assesses insurance surcharges based on certain motor vehicle offenses, in addition to any court fines, penalties, or personal auto insurance premiums. A motorist who accumulates six points on his or her record within three years is assessed a \$100 surcharge every year for three years. For each point above six, the driver must pay an additional \$25 per year. An additional surcharge of \$250 annually for three years is assessed for driving without a license or insurance or in an unregistered car. For driving under the influence of alcohol or drugs and refusing to submit to a chemical test, a driver must pay \$1,000 annually for three years. If a person fails to pay the surcharge, the Motor Vehicle Commission

suspends all driving privileges indefinitely and takes judgment action filed in the State Superior Court, which can include securing a lien against the person's real property, a garnishment of the person's wages, and other similar actions.

## **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**

Michigan is said to rank fourth among the states for the number of traffic fatalities caused by habitually dangerous drivers. Bad drivers, who injure, permanently disable, or kill others, often are punished with a simple fine, and many continue to drive even after their licenses have been suspended or revoked. Drunk driving, reckless driving, and road rage-related incidents make Michigan's roads hazardous for responsible drivers, passengers, and pedestrians. In addition to the incalculable human costs, irresponsible driving results in enormous costs to taxpayers. Since repeat violators do not seem to be affected by concern for the safety of others, a severe financial burden is needed to make drivers aware of the seriousness of their actions and to prompt them to change their behavior. A similar program has been successful in New Jersey, which, according to National Highway Traffic Safety Administration figures, has the lowest number of fatalities per 100 miles driven of any of the 10 largest states. Since the program was enacted, traffic fatalities in New Jersey reportedly have declined 24%.

### **Opposing Argument**

Under the bill, the fees collected will be deposited into the new Fire Protection Fund and the General Fund. Michigan's Constitution, however, mandates that revenue collected from penal fines go to public libraries, and the Michigan Vehicle Code requires revenue from State civil infraction fines to be used for libraries in the same manner as provided for penal fines. Depositing the fee revenue into the Funds might give police officers an incentive to issue more citations than necessary. Similarly, local courts might have a reason to plea-bargain offenses to no-point violations with high fines, so that the local courts may keep the revenue

instead of sending it to Lansing. Although bad drivers are a problem, this kind of driver responsibility policy should be formulated strictly for safety reasons and not subject to potential corruption by the promise of increased revenue.

**Response:** Since the bill creates an administrative fee instead of a traffic fine, the revenue can legally be deposited into the General Fund and the Fire Protection Fund.

### **Opposing Argument**

There are approximately 350,000 Michigan drivers with at least seven points on their records. Many of them may have accumulated points entirely from speeding tickets or other violations that are not particularly egregious. They are not a threat to public safety. Speeders should not be harshly punished if they accumulate points in the future because they happened to be in the wrong place at the wrong time.

**Response:** Speeding can be very dangerous, and a person with multiple speeding violations poses a risk for other drivers and pedestrians.

### **Opposing Argument**

People already face penalties and, most likely, increased insurance premiums, for traffic violations under the Code. The driver responsibility fee essentially will punish people twice. It also might conflict with established sentencing guidelines and intrude on a judge's discretion to prescribe penalties on a case-by-case basis.

**Response:** The sentencing guidelines apply strictly to felonies.

### **Opposing Argument**

The bill might encourage the type of behavior it is meant to curb. Some low-income drivers will not be able to pay \$100 or more per year in new fees and will instead choose to drive without a license.

**Response:** If the bill deters dangerous driving, drivers in any income bracket will avoid the fees.

### **Opposing Argument**

Though the bill is well-meaning, certain people might be unfairly punished by a flawed criminal justice system. Those able to afford a lawyer may evade punishment for their repeated violations, while those least able to afford it will have to pay added fees. Although the State is facing a difficult budget situation,

it is not appropriate to balance the budget on the backs of people unable to buy their way out of punishment. The bill does not address the problem of bad driving effectively; instead of imposing new fees, the State should do more to improve the driving skills of poor drivers or to revoke the licenses of truly dangerous drivers.

**Response:** The program places responsibility where it belongs: on people who consistently disregard the law and show no concern for others on the road. Taxpayers should not have to shoulder the cost of a few people's reckless behavior. Further, license suspension and even revocation are often ineffective in getting bad drivers off the road; many people simply choose to drive without a license. It is often the case that people respond more to something that directly affects their pocketbooks. The driver responsibility fee will make it too expensive for people to continue driving dangerously.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

Based on data provided by the Department of State for the time period of December 28, 2001, through December 26, 2002, the bill could generate up to \$124.7 million if 100% of the amount billed were collected. However, the actual amount collected will depend on collection efforts and the ability of assessed individuals to pay. The State of New Jersey has had a similar program since 1984. Collections from amounts billed in the first year amounted to 55.2% of the actual amount billed. In 1996, New Jersey began contracting out collections for its driver responsibility program. According to the New Jersey Department of Motor Vehicles, the collection rate is about 60%, and average collection costs charged by the private collection firm average 12.3%. Based on that information, Senate Bill 509 annually may generate \$68.6 million to \$74.8 million, less any collection costs incurred by the Department of State.

The Department of State is in the process of contracting with a collection agency to implement Michigan's driver responsibility program. Collection costs in the first two years might be higher than costs in the future because of program start-up costs. Also, the annual amount collected will vary based on the timing of convictions and the

length of time necessary to collect amounts billed. Collections in future years also will depend on the effect that the penalties in the bill have on driver behavior.

Deposits to the Fire Protection Fund will be contingent upon total revenue collected under the bill. To the extent that collections exceed \$65 million, up to \$3.5 million may be deposited in the Fire Protection Fund. Up to an additional \$5 million may be credited to the Fire Protection Fund if collections exceed \$100 million.

With the exception of amounts credited to the Fire Protection Fund, all other amounts collected must be credited to the State General Fund.

Fiscal Analyst: Bill Bowerman

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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.