




Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 183 (Substitute S-1 as reported)
Senate Bills 262 and 314 (as reported without amendment)
Senate Bill 491 (Substitute S-1 as reported)
Senate Bill 1041 (as reported without amendment)
Sponsor: Senator Michelle A. McManus (S.B. 183)
Senator Tom George (S.B. 262)
Senator Bev Hammerstrom (S.B. 314)
Senator Wayne Kuipers (S.B. 491)
Senator Patricia L. Birkholz (S.B. 1041)
Committee: Transportation

Date Completed: 3-28-06

RATIONALE

Motor vehicle crashes remain the leading cause of unintentional injury-related death among children ages 14 and under, claiming approximately 1,600 lives and resulting in approximately 220,000 injuries in 2003, according to Safe Kids Worldwide (formerly the National SAFE KIDS Campaign), a nonprofit child advocacy group. When used correctly and consistently, child safety seats and seat belts can be effective in saving lives and preventing injuries. Safe Kids Worldwide reports, however, that approximately 14% of the children under 15 in the United States continue to ride unrestrained. In addition, according to the U.S. Department of Transportation, 80% to 90% of children who should be in booster seats are not.

While the reasons for misusing or not using child safety seats and seat belts vary, safety experts believe that a key factor is the weakness of state laws, which have gaps in coverage as to age and seating positions, as well as various exemptions. Several years ago, Safe Kids Worldwide graded state laws on whether they required age-appropriate child restraints and proper safety seat adjustments, among other safety criteria. In addition, state laws were compared with a model law designed by the organization. The organization gave Michigan a failing grade for its child safety restraint laws. Consequently, some people believe that these laws should be strengthened to

provide maximum protection for children who are motor vehicle passengers.

CONTENT

The bills would amend the Michigan Vehicle Code to do the following:

- **Add child restraint system requirements for children younger than eight or up to four feet, nine inches tall.**
- **Require a driver who was transporting a child under four to position the child in a child restraint system behind the driver; and remove an exemption for nursing children from child restraint requirements.**
- **Allow children under 13 to sit in the front seat only under specific circumstances, and establish additional restraint and seating conditions for children younger than 16.**
- **Eliminate provisions under which a driver is in compliance with safety belt requirements if there are more passengers in a motor vehicle than there are safety belts available for use.**
- **Provide that certain safety belt and restraint requirements would not apply to a person who was unable to wear a child restraint system.**

- **Prescribe a civil fine and court costs for transporting passengers younger than 16 in violation of child safety restraint or seat belt requirements; and require half of the fines collected for violations to be deposited in a proposed Child Safety Education Fund.**
- **Require a court to waive any civil fine, cost, or assessment against a person who received a civil infraction citation for violating certain child restraint requirements if the person supplied the court with evidence of acquisition, purchase, or rental of a proper child seating system before the appearance date on the citation.**

The bills are described below in further detail.

Senate Bill 183 (S-1)

Section 710e(3) of the Code requires a driver and front seat passenger to wear a properly adjusted and fastened safety belt, although a child younger than four must be protected as required under Section 710d. (Under that section, a driver transporting a child under four years of age must properly secure that child in a child restraint system that meets the standards prescribed in the Code of Federal Regulations (49 CFR 571.213).)

Under the bill, except as required for a child under four years old, a child who was younger than eight or less than four feet, nine inches tall would have to be secured properly in a child restraint system in accordance with the restraint manufacturer's and vehicle manufacturer's instructions and the standards prescribed in 49 CFR 571.213.

Currently, a driver transporting a child who is at least four but younger than 16 must secure the child in a properly adjusted and fastened safety belt. Under the bill, this requirement would apply to a child who was at least eight but younger than 16, notwithstanding the proposed height limitation.

Senate Bill 262

Currently, a court must waive any civil fine, cost, or assessment for a violation of Section 710d if the violator, before the appearance date, supplies the court with evidence of

acquisition, purchase, or rental of a proper child seating system. Under the bill, this requirement also would apply to a violation of Section 710e(3).

Senate Bill 314

The bill would delete a provision exempting children being nursed from the Code's requirement that a driver transporting a child under four properly secure that child in a child restraint system that meets the Federal standards. Under the bill, all children under four would have to be properly secured in a child restraint system, and the system would have to be positioned in a seat located behind the driver, if the vehicle were equipped with such a seat.

Senate Bill 491 (S-1)

The Code prescribes a civil fine of \$10 for a person who is determined to be responsible or responsible "with explanation" for a civil infraction for violating Section 710d. Under the bill, the \$10 fine would apply to a first violation. For a second or subsequent violation of that section, the civil fine would be \$100.

The bill would prescribe a civil fine of \$10 for a first offense and \$100 for a second or subsequent violation of Section 710e(3)(b) or 710e(5).

(Although Section 710e(3)(b) does not currently exist, under Senate Bill 183 (S-1) that section would require a child under eight years old or less than four feet, nine inches tall to be secured in a child restraint system. Currently, under Section 710e(5), if the Office of Highway Safety Planning certifies that there has been less than 80% compliance with the safety belt requirements of Section 710e during the preceding year, then enforcement of that section must be accomplished only as a secondary action when a driver has been detained for violating another section of the Code. Under Senate Bill 183 (S-1), Section 7e(5) would require that children age eight through 15 be secured in a safety belt.)

Currently, an individual must pay a civil fine and court costs of \$25 for violating Section 710e. Under the bill, the \$25 fine would apply to a violation of that section other than 710e(3)(b) or 710e(5).

Under the bill, fines collected for each citation for a second or subsequent violation of Sections 710d, 710e(3)(b), and 710e(5) would have to be transmitted to the State Treasurer for deposit in the Child Safety Education Fund (proposed by House Bill 4787).

The bill is tie-barred to House Bill 4787, which is tie-barred to the Senate bill. (House Bill 4787 would create the Child Safety Education Fund within the State Treasury. The Department of Community Health would have to administer the Fund and could spend Fund money only for discretionary grants under the Child Car Seat Safety Grant Program.)

Senate Bill 1041

Section 710e contains safety belt requirements for drivers, front seat passengers, and children age four through 15. The section does not apply to a driver or passenger of a motor vehicle if he or she possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons. Under the bill, Section 710e also would not apply to a person who had a physician's written verification that he or she could not wear a child restraint system.

Under Section 710e, each driver and front seat passenger of a motor vehicle must wear a safety belt. If there are more passengers than safety belts available for use, and all safety belts in the vehicle are being used in compliance with this requirement, then the driver is in compliance with the requirement. The bill would delete this provision.

The bill would delete the provisions of Section 710e prescribing restraint requirements for children under 16. Currently, a driver transporting a child at least four years old but under 16 must secure the child in a properly adjusted and fastened safety belt. If the vehicle is transporting more children than there are safety belts available for use, all safety belts available in the vehicle are being used in compliance with Section 710e, and each driver and front seat passenger is wearing a properly adjusted and fastened safety belt, then the driver is in compliance with this requirement if a child age four or more but under 16 is seated in other than the front

seat. If the vehicle is a pickup truck without an extended cab or jump seats, and all front seat safety belts are being used, the driver may transport a child in the front seat without a safety belt.

Under the bill, a driver could permit a child who was 12 or younger to sit in the front seat only if any of the following conditions applied:

- The vehicle lacked a rear seat.
- The rear seats were side-facing jump seats or rear-facing seats.
- The child restraint system appropriate to the age and weight of the child could not be installed properly in the rear seat.
- All rear seat positions were occupied by children younger than 12.
- The driver had written medical verification from a physician that the child was unable to ride in a rear seat.
- The child was restrained properly as described below.

Except as otherwise provided above, a driver would have to require that each passenger be restrained and seated properly as follows:

- A child over 12 but under 16 would have to be secured in a properly adjusted and fastened safety belt and could be seated in either the front or a rear seat.
- A child between the ages of eight and 12 would have to be seated in a rear seat and be properly restrained in either a safety belt or an age- and weight-appropriate child restraint system, according to the child restraint manufacturer and vehicle manufacturer's instructions.
- A child age four or more but under eight would have to be seated in a rear seat and be properly restrained in an age- and weight-appropriate child restraint system according to the child restraint manufacturer's and the vehicle manufacturer's instructions.
- A child younger than four would have to be seated in a rear seat and would have to be protected as required in Section 710d.

MCL 257.710e (S.B. 183)
257.907 (S.B. 262)
257.710d (S.B. 314)
257.907 (S.B. 491)
257.710e (S.B. 1041)

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

According to Safe Kids Worldwide, Michigan's child occupant protection laws do not do a good job of protecting the State's children. Despite efforts to improve traffic safety, Michigan still needs to ensure that children, the most vulnerable passengers, are provided maximum protection. The bills would strengthen current regulations to enhance the safety of children in several ways.

Many parents are unaware that safety belts do not provide adequate protection for children after they outgrow car seats. On a child under four feet, nine inches tall, a safety belt designed for an adult rides over the pelvis and abdominal area, leaving the child vulnerable to liver, spleen, and intestinal injuries in the event of a crash. Children also are at risk for spinal cord injury and head trauma due to ill-fitting shoulder straps.

Senate Bill 183 (S-1) would require a child who is too big for a car seat to be secured in an age- and size-appropriate restraint system—a booster seat. Such a system enables a seat belt to be positioned properly around a child's hips and across the chest, reducing the likelihood of injury or death. The current lack of a statutory requirement for child booster seats does the public a great disservice by implying that children are safe while restrained only by adult seat belts. Enacting a booster seat requirement would help educate parents and save lives, as well as bring Michigan in line with the majority of states that have such a law. According to the U.S. Department of Transportation, 34 other states already have a booster seat requirement in place.

Senate Bill 262 also would enhance child safety by requiring a court to waive fines for child restraint violations if a parent could show that he or she had obtained a proper restraint system. In using this approach, the bill would help educate parents and encourage them to take corrective measures, rather than punish them.

The law requires all children to be restrained, but does not acknowledge the fact that the back seat is the safest place for a child to ride. According to Safe Kids Worldwide, children ages 12 and under are 36% less likely to die in a crash if seated in the rear of a passenger vehicle than if seated in the front seat. In addition, the Federal regulations require car seat instructions to state that children are safer when properly restrained in the rear seating position than in the front seat. Senate Bills 314 and 1041 would reduce the number of injuries and deaths by requiring that children under four years of age be secured properly in a car seat behind the driver, and establishing age-appropriate seating and restraint requirements for older children.

Additionally, Senate Bill 314 would eliminate the exception to car seat requirements for nursing children. This exception unnecessarily jeopardizes children who are breast-feeding. Although a nursing mother might be wearing a seat belt and holding the child in a sling, the child undeniably is not as safe as he or she would be in a car seat. While the present law recognizes the importance of breast-feeding, protecting the life of all children is paramount. The bill would not prevent breast-feeding in vehicles, however, since some mothers are able to nurse children who are in rear-facing car seats. By removing the present exception, the bill would ensure that all children under four, including those being nursed, received the protection of a car seat.

Like Senate Bill 262, Senate Bill 491 (S-1) also could encourage parents to take corrective action by establishing a \$10 fine for first violations of child restraint requirements, and a \$100 fine for second or subsequent violations. Furthermore, half of the revenue from fines collected under the bill would fund the Child Car Seat Safety Grant Program, which was established to provide grants for training, promotion, and education concerning child restraint system laws. Reportedly, the Fund money would be used to provide free or low-cost child restraint systems to low-income parents.

Children depend on their parents to protect them while riding in motor vehicles. Many parents, however, believe that, if certain measures were necessary to safeguard their children adequately, they would be required

by law. The bills would increase public awareness regarding the importance of proper child restraint, help parents take appropriate safety measures, reduce injuries, and save lives.

Opposing Argument

Senate Bill 491 (S-1) could impose an undue burden on some, particularly low-income parents. Perhaps all, rather than 50%, of the fine revenue collected for child restraint violations should be deposited in the proposed Child Safety Education Fund, so that the State could provide more low-income parents with car seats and booster seats.

Response: Under current law, all fine revenue from all other civil infractions under the Code is dedicated to libraries; channeling to another entity half of the revenue collected for child restraint violations already would be a significant departure from current practice. Furthermore, some private companies, especially automobile manufacturers, already operate programs to educate parents on proper child restraint and provide cost assistance for child safety systems. The approach under the bill and House Bill 4787 would supplement these programs, rather than supplant them. The allocation of more civil fine revenue to the Fund merely would result in unnecessary duplication.

Legislative Analyst: Julie Koval

FISCAL IMPACT

Senate Bills 183 (S-1), 314, 491 (S-1), and 1041

The bills could result in additional revenue to the State and local units of government. To the extent that there would be increased violations, the bills would result in additional fine revenue, courts costs, and Justice System Fund Assessments. Fine revenue from civil infractions under the Michigan Vehicle Code is allocated to public libraries. Fines resulting from citations for violations of corresponding local ordinances are shared between the local unit of government and the court funding unit. Under Senate Bill 491 (S-1), revenue collected from second and subsequent violations would be transmitted to the Child Safety Education Fund.

Senate Bill 491 (S-1) is tie-barred to House Bill 4787, which would create a moderate, indeterminate increase in administrative cost for the Department of Community Health associated with the administration of the Child Safety Education Fund.

Senate Bill 262

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

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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.