

Legislative Analysis



MOVING VIOLATIONS: DEATH OR INJURY

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 6626 & 6627
Sponsor: Rep. Fred Miller

House Bills 6630 & 6631
Sponsor: Rep. Paul Opsommer

House Bills 6628 & 6629
Sponsor: Rep. Frank Accavitti

House Bill 6632
Sponsor: Rep. Hoon-Yung Hopgood

Committee: Transportation

Senate Bill 104
Sponsor: Sen. Valde Garcia
Senate Committee: Transportation
House Committee: Transportation

Complete to 12-1-08

A SUMMARY OF HOUSE BILLS 6626 - 6632 AS INTRODUCED 11-12-08

Each of the House bills is tie-barred to Senate Bill 104, which would amend the Michigan Vehicle Code to establish penalties for moving violations that seriously injure or kill another person, and would repeal existing sections of law that provide penalties for felonious driving and negligent homicide. (Senate Bill 104 is described in more detail later.)

The House bills would amend other acts to make complementary amendments, including background check amendments that would prohibit the employment of individuals in certain kinds of facilities if they have been convicted of a moving violation that causes the death of another person within the previous five years. The House bills and Senate Bill 104 would take effect October 31, 2010.

House Bills 6626 and 6627 would amend the Mental Health Code (MCL 330.1134a) and Public Health Code (MCL 333.20173a), respectively, to prohibit certain health facilities and agencies, psychiatric hospitals, and intermediate care facilities for people with mental retardation from employing, independently contracting with, or granting clinical privileges to an individual who provided services to or had regular access to patients or residents in the facility or agency, if the individual had been convicted of a moving violation that caused the death of another person within the previous five years.

House Bill 6628 would amend the Adult Foster Care Facility Licensing Act (MCL 400.734b) to prohibit an adult foster care facility from employing or contracting with an individual who provided services to or had regular access to residents of the facility if the individual had been convicted of a moving violation causing death within the previous five years.

House Bill 6629 would amend the Code of Criminal Procedure (MCL 769.1f) to permit the court to order reimbursement to the state or local unit of government for expenses incurred in relation to the incident if an individual were convicted of one of the following violations: a moving violation that caused the death of or serious injury to another person or reckless driving that caused the death of or serious injury to another person.

House Bill 6630 would amend the Code of Criminal Procedure (MCL 777.12g and 777.16p) to revise sentencing guidelines for violations involving the operation of a motor vehicle, creating two new crimes having statutory maximum penalties of 5 and 15 years in prison, respectively.

House Bill 6631 would amend Part 821 (Snowmobiles) of the Natural Resources and Environmental Protection Act (MCL 324.82147) to require the Secretary of State to order a person not to operate a snowmobile for one year if he or she had been convicted of violating certain sections of the Michigan Vehicle Code regarding reckless driving that caused the death of or serious injury to another person.

House Bill 6632 would amend the Insurance Code (MCL 500.3341) to require the Michigan Automobile Insurance Placement Facility (the insurer of last resort) to add a premium surcharge for certain moving violations causing the death of or serious injury to another person.

Senate Bill 104, as passed by the Senate, would create Section 601d of the Michigan Vehicle Code (dealing with a moving violation that caused the death of or serious injury to another person) and Sections 626(3) and 626(4) (dealing with reckless driving that caused the death of or serious injury to another person).

Under proposed Section 601d, a person who committed a moving violation that caused the death of another person would be guilty of a misdemeanor punishable by imprisonment for up to one year and/or a maximum fine of \$2,000. A person who committed a moving violation that caused serious impairment of a body function of another person would be guilty of a misdemeanor punishable by imprisonment for up to 93 days and/or a maximum fine of \$500.

Under proposed Section 626(3), if a person operated a vehicle in violation of the reckless driving provisions of the Code and by the operation of the vehicle caused serious impairment of a body function of another person, the violator would be guilty of a felony punishable by imprisonment for up to five years and/or a fine of not less than \$1,000 or more than \$5,000.

Under proposed Section 626(4), if a person who operated a vehicle in violation of the reckless driving provisions and by the operation of the vehicle caused the death of another person, the violator would be guilty of a felony punishable by imprisonment for up to 15 years and/or a fine of at least \$2,500 but not more than \$10,000.

FISCAL IMPACT:

In general, the House bills would not appear to have a significant fiscal impact on the state or local units of government. House Bill 6629 would have an indeterminate, but likely positive, fiscal impact on state and local government.

For Senate Bill 104 and House Bill 6630, the bills' fiscal impact on state and local justice systems would depend on how they affected numbers of misdemeanor and felony convictions and severity of sentences. Statute establishing the two-year misdemeanor of negligent homicide would be repealed, as would the provision for the two-year offense of felonious driving. New felonies associated with reckless driving causing death or serious impairment would be created, as would new misdemeanors for moving violations that caused death or serious impairment.

Changes in the number of felons sentenced to prison or probation would affect the Department of Corrections (MDOC). The average annual cost of prison incarceration is about \$32,000 per prisoner, a figure that includes various fixed operational and administrative costs. Annual costs of parole and probation supervision (exclusive of any costs of electronic tether) average about \$2,100 per supervised offender. Changes in the numbers of felons sentenced to jail would affect counties; those costs vary by county.

Generally, misdemeanor sanctions are a local responsibility; costs associated with increases in the number of misdemeanants sentenced to jail or misdemeanor probation supervision are borne by local units and vary with jurisdiction. Unlike other misdemeanors, however, two-year misdemeanors are subject to sentencing guidelines and offenders placed on probation for two-year misdemeanors are supervised by MDOC probation agents; counties can incur costs, however, if such offenders are sentenced to jail.

There are no data to indicate how many offenders might be affected by new misdemeanors and felonies to be created by the legislation. However, in 2007, there were 93 sentences for negligent homicide and 35 sentences for felonious driving. Of the 93 sentences for negligent homicide, 18 were to prison, 53 were to probation, 13 were to jail, and 9 were to some other sanction such as the Holmes Youthful Trainee Act. Of the 35 sentences for felonious driving, 5 were prison, 24 were probation, 3 were jail, and 3 "other."

Any changes in collections of penal fine revenues could affect local libraries, which are the constitutionally-designated recipients of those revenues.

Legislative Analyst: J. Hunault
Fiscal Analysts: Ben Gielczyk
Margaret Alston
Kevin Koorstra
Marilyn Peterson

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.