

Legislative Analysis



MOVING VIOLATIONS: DEATH OR INJURY

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House Bill 6627 as enrolled
Public Act 444 of 2008
Sponsor: Rep. Fred Miller

Senate Bill 1578 as enrolled
Public Act 442 of 2008
Sponsor: Sen. Valde Garcia

House Bill 6629 as enrolled
Public Act 466 of 2008
Sponsor: Rep. Frank Accavitti, Jr.

Senate Bill 1580 as enrolled
Public Act 446 of 2008
Sponsor: Sen. Michael Switalski

House Bill 6630 as enrolled
Public Act 467 of 2008
Sponsor: Rep. Paul Opsommer

Senate Bill 1581 as enrolled
Public Act 465 of 2008
Sponsor: Sen. Jason E. Allen

Senate Bill 1576 as enrolled
Public Act 468 of 2008
Sponsor: Sen. Valde Garcia

Senate Bill 104 as enrolled
Public Act 463 of 2008
Sponsor: Sen. Valde Garcia

House Committee: Transportation
Senate Committee: Transportation
Complete to 7-24-09

A SUMMARY OF HOUSE BILLS 6627, 6629-6630, AND SENATE BILLS 104, 1576, 1578, 1580-1581 AS ENROLLED

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, and a set of accompanying Senate bills, would amend other acts to make complementary amendments, including requiring background checks that would prohibit the employment of individuals in certain kinds of health care facilities if they have been convicted of a moving violation that caused the death of another person within the previous five years. Most of the bills take effect October 31, 2010.

The main bill in the package is Senate Bill 104, which amends the Michigan Vehicle Code to establish penalties for moving violations that seriously injure or kill another person, as follows:

- A moving violation that causes serious impairment of a body function of another person is a misdemeanor punishable by up to 93 days or a maximum fine of \$500, or both.
- A moving violation that causes the death of another person is a misdemeanor punishable by imprisonment for up to one year or a maximum fine of \$2,000, or both.

- Reckless driving that causes serious impairment of a body function of another person is a felony punishable by imprisonment for up to five years or a fine of between \$1,000 and \$5,000, or both, and vehicle immobilization.
- Reckless driving that causes the death of another person is a felony punishable by imprisonment for up to 15 years or a fine of \$2,500 to \$10,000, or both, and vehicle immobilization.

Senate Bill 104 also does the following:

- Requires the Secretary of State (SOS) to assign six points to a person's driving record for any of the above offenses, and four points for a moving violation resulting in an at-fault collision.
- Requires a person convicted of any of the above offenses to pay a \$1,000 driver responsibility fee each year for two consecutive years.
- Requires the SOS to revoke a person's license if he or she is convicted of reckless driving that causes the death or serious impairment of a body function of another person.
- Requires the SOS to suspend a person's license for one year if he or she is convicted of a moving violation that causes the death or serious impairment of a body function of another person.
- Eliminates the offenses of felonious driving and negligent homicide.
- Requires the SOS to suspend a person's license for one year if he or she is convicted of operating a vehicle which a blood alcohol content of 0.17 grams or more. -- Permits the SOS, 45 days after suspending a person's license under that provision, to issue the person a restricted license to operate a vehicle with an ignition interlock device.
- Requires the civil fine for a moving violation that resulted in an at-fault collision to be increased by \$25, not to exceed \$100.

For additional information on Senate Bill 104, see the documents from the Senate Fiscal Agency (including the summary of the bill as enacted dated 6-29-09 and an earlier, more detailed explanation of the issue and of the Senate-passed version of the bill dated 8-5-08.)

The following are the associated House and Senate bills.

House Bill 6627 amends the Public Health Code (MCL 333.20173a), 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 6629 amends the Code of Criminal Procedure (MCL 769.1f) to permit the court to order reimbursement to the state or local unit of government for related expenses incurred in relation when an individual is convicted either of either a moving violation that caused the death of or serious injury to another person or of reckless driving that caused the death of or serious injury to another person.

House Bill 6630 amends 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.

Senate Bill 1576 amends the Insurance Code to require the automobile insurance placement facility, as part of its merit-based insurance plan, to include a surcharge for a moving violation that causes the death of another person.

Senate Bill 1578 amends the Adult Foster Care Facility Licensing Act to prohibit an adult foster care facility from employing or contracting with an individual who provides services to or has regular access to residents of the facility if the individual was convicted of a moving violation that caused the death of another person within the previous five years.

Senate Bill 1580 amends the Mental Health Code to prohibit psychiatric hospitals and intermediate care facilities for people with mental retardation from employing, independently contracting with, or granting clinical privileges to an individual who provides services to or has regular access to patients or residents, if the individual was convicted of a that caused the death of another person within the previous five years.

Senate Bill 1581 amended Part 821 (Snowmobiles) of the Natural Resources and Environmental Protection Act (NREPA) to require the SOS to order a person not to operate a snowmobile for one year if he or she has been convicted of reckless driving that causes the death of or serious injury to another person.

Senate Bill 1581 took effect on January 1, 2009. The remaining bills will take effect on October 31, 2010.

FISCAL IMPACT:

In general, the 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.

BACKGROUND INFORMATION:

These bills address concerns that the standards for determining whether a person is guilty of negligent homicide or felonious driving are ambiguous, leading to inconsistent enforcement and uncertainty among members of the public as to what the penalties for certain actions will be. Further, it has been recommended that driving offenses causing death or serious injury should carry higher penalties than exist currently, to discourage reckless behavior while operating a vehicle and to reduce the number of fatal or injurious accidents. Concerns have also been expressed that the language describing those two offenses is outmoded and should be replaced with updated language in the Vehicle Code that would be consistent with other provisions of that statute.

For additional information on Senate Bill 104, see the documents from the Senate Fiscal Agency (including the summary of the bill as enacted dated 6-29-09 and an earlier, more detailed explanation of the issue and of the Senate-passed version of the bill dated 8-5-08.)

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■ 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.