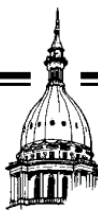




Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986

House Bill 4254 (Substitute S-1 as reported)  
Sponsor: Representative John Walsh  
House Committee: Transportation and Infrastructure  
Senate Committee: Transportation

*(as passed by the Senate)*

Date Completed: 4-25-13

### **RATIONALE**

Electric carriages are horse carriages retrofitted with electric motors for propulsion in lieu of horses. The Michigan Vehicle Code does not explicitly provide for or exempt these vehicles, but they would be considered motor vehicles under the Code because they are self-propelled. Electric carriages do not conform to Federal requirements for motor vehicles that are incorporated into the Code, however, so obtaining a motor vehicle registration for an electric carriage is not possible. Also, electric carriages do not typically fall under local ordinances regarding transportation for hire.

One Michigan business based in Livonia, Andre's Carriage Tours, recently started providing electric carriage taxi services on a limited basis in Detroit. Andre's Carriage Tours has one electric carriage, and its services in Detroit have been limited to parades, weddings, and other special events. Evidently, the business would like to expand its activities in Detroit, and is interested in operating in different areas within the State.

Reportedly, the City of Detroit has expressed interest in allowing, through a local ordinance, Andre's Carriage Tours to operate on a regular basis in certain areas. The City has refrained due to the issues relating to the Code's application, and potential conflicts between an ordinance and State law. It has been suggested that the Michigan Vehicle Code exempt these vehicles so they are not considered motor vehicles, do not have to comply with requirements for motor vehicles, and do not

have to be registered under the Code, and so municipalities may allow their use.

An unrelated matter concerns provisions of the Code that regulate the use of a mobile telephone, and communicating through text messages on a mobile phone, while a person is operating a motor vehicle. The Code generally prohibits text messaging while operating a motor vehicle that is moving. Beginning October 28, 2013, the Code also will prohibit text messaging while operating a commercial motor vehicle, regardless of whether the vehicle is moving, as well as using a hand-held mobile phone while operating a commercial motor vehicle. It has been suggested that school buses be included in the provisions regarding commercial motor vehicles, and that the Code define "use a hand-held mobile telephone".

### **CONTENT**

**The bill would amend the Michigan Vehicle Code to:**

- **Exclude electric carriages from the definition of "motor vehicle", and define "electric carriage".**
- **Include school buses within restrictions regarding sending and receiving text messages, and using a hand-held mobile phone, while operating a vehicle.**
- **Define "use a hand-held mobile telephone".**

## Electric Carriages

The Code defines "motor vehicle" as every vehicle that is self-propelled except for industrial equipment, construction equipment not subject to registration under the Code, electric patrol vehicles, and personal assistive mobility devices. The bill would add electric carriages to these exceptions.

"Electric carriage" would mean a horse-drawn carriage that has been retrofitted to be propelled by an electric motor instead of by a horse and that is used to provide taxi service.

## Text Messages & Mobile Phones

The Code prescribes civil infraction fines for individuals who read, type, or send text messages while operating a motor vehicle or a commercial motor vehicle. Beginning October 28, 2013, the fines also will apply to a person who uses a hand-held mobile telephone to talk while operating a commercial motor vehicle. The bill would include school buses within the restrictions that apply to commercial vehicle operators.

The bill would define "use a hand-held mobile telephone" as one or more of the following: 1) using at least one hand to hold a mobile telephone to conduct voice communication, 2) dialing or answering a mobile phone by pressing more than a single button, and 3) reaching for a mobile phone in a way that requires a driver to maneuver out of a seated driving position, properly restrained by a seat belt.

MCL 257.33 et al.

## **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**

With regard to electric carriages, the bill would facilitate a new, unique, and local business industry, positively affect communities, and provide other benefits. Andre's Carriage Tours owner would like the opportunity to offer services in the State on a regular basis. Electric carriage tours could promote tourism in Michigan by showing off cities' assets and history. They could

increase traffic, and provide greater exposure, for downtown merchants, resulting in higher sales and local tax revenue. Since the carriages operate without a horse, they can serve more areas than horse-drawn carriages, and also result in cleaner streets, less maintenance, and fewer enforcement issues. Electric carriage tours could be a unique asset to a local community, and used for a variety of purposes.

A local government is in the best position to determine if electric carriage services are appropriate for its community. The bill would put local governments in charge of whether to allow businesses like Andre's Carriage Tours to serve their communities. By exempting electric carriages from the definition of motor vehicle, and therefore registration, the bill would remove State restrictions and set the stage for local governments to pass ordinances regarding if, where, how, and when, these vehicles may operate.

The bill is limited in scope to upfitted carriages, and should not affect the regulation of electric cars or other vehicles. Safety concerns also would not be an issue. Reportedly, the Detroit Police have inspected Andre's Carriage Tours' carriage and found it safe to operate on the streets of Detroit, and the carriage has been extensively tested over the past two and a half years. It is equipped with brakes, and head, tail, and brake lights. Reportedly, during the winter months, Andre's Carriage Tours operates in Mississippi on a regular basis without issue.

### **Supporting Argument**

Andre's Carriage Tours uses an electric carriage that is an upfitted replica of a horse-drawn carriage. This electric carriage was adapted in Kimbal, Michigan, near Port Huron. Expansion of this niche industry could result in economic gains for businesses engaged in this retrofitting activity, benefitting the community and the State.

### **Supporting Argument**

With regard to text messaging and mobile phones, the bill would clarify certain terms in the Act, and ensure compliance with Federal law.

Federal regulation 49 CFR 390.5 offers a definition for "use a hand-held mobile telephone". Although the Michigan Vehicle

Code will prohibit a person from using such a device while operating a commercial motor vehicle, the Code does not contain an applicable definition. Codifying the Federal definition would ensure compliance with Federal regulation. Further, a definition would offer a clear standard for commercial vehicle operators and related industries.

In addition, it is not clear that school buses are considered commercial vehicles for purposes of the Code's provisions regulating text-messaging and the use of a hand-held mobile phone. The bill would include school buses within the Act's restrictions for commercial vehicle operators, and clear up any potential misunderstanding as to whether school bus operators are subject to the same rules as commercial vehicle operators.

Legislative Analyst: Glenn Steffens

### **FISCAL IMPACT**

The bill would have no fiscal impact on the State. Depending on the number of civil infraction fines collected for text messaging, or using a mobile phone, while driving, \$100 for each first infraction and \$200 for each subsequent infraction would go to the local libraries of the jurisdictions in which the infractions occurred. The number of potential infractions is unknown.

Fiscal Analyst: Joe Carrasco

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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.