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Senate Bill 924 (Substitute S-2 as passed by the Senate)**Sponsor: Senator Harmon Cropsey****Committee: Criminal Justice, Urban Affairs, and Economic Development****Date Completed: 10-11-88****RATIONALE**

The costs of impaired driving can be great, in both human and monetary terms. A traffic offense committed by an individual who operates a vehicle while under the influence of drugs or alcohol can result not only in damage to property and injury to people, but in increased costs to taxpayers. While injured individuals can collect damages from an impaired driver through a civil action, there is no provision in State law under which governmental agencies that respond to drunk driving offenses can recover reimbursement for their expenses. Law enforcement agencies and other emergency response units reportedly incur great costs in salaries and equipment when responding to the scene of accidents. Some people feel that violators of impaired driving laws should be responsible for those costs. In addition, although the threat of incarceration once was viewed as an adequate deterrent to drinking and driving, many people now question its effectiveness. They contend that a financial penalty would more strongly discourage drug- and alcohol-related driving offenses.

CONTENT

The bill would amend the Code of Criminal Procedure to allow a court to order a person convicted of certain alcohol- or drug-related driving offenses to reimburse the State or a local unit of government for medical and personnel expenses of an emergency response to the incident out of which the conviction arose, and expenses incurred in the prosecution of the person for that incident. The bill would apply to offenses relating to the operation of a motor vehicle, snowmobile, off-road vehicle (ORV), aircraft, vessel, or locomotive engine. The total amount a defendant was ordered to pay could not exceed \$500 unless the incident involved the operation of an aircraft or train, resulted in death to one or more persons or injury to three or more persons, or involved three or more vehicles.

A reimbursement requirement could be imposed as part of a sentence for a person convicted of operating any of the types of vehicles to which the bill would apply while under the influence of liquor or a controlled substance, or while impaired due to the consumption of liquor or a controlled substance. In addition, a conviction for an offense of felonious driving, negligent homicide, or manslaughter, that resulted from the operation of a motor vehicle, snowmobile, ORV, aircraft, boat, or train while the operator was impaired by or under the influence of liquor or a controlled substance could result in a reimbursement order.

The expenses for which reimbursement could be ordered include the salaries or wages, including overtime pay, of law enforcement personnel for time spent responding to and investigating the incident, arresting the person involved, and preparing reports and evidence. A reimbursement order also could cover the salaries and wages and other compensation for fire department and emergency medical service personnel for time spent responding to the incident and providing services relating to the incident, and the cost of medical supplies lost or expended by them.

The reimbursement would have to be paid to the clerk of the court. The clerk then would have to transmit the appropriate amount to the unit or units of government named in the reimbursement order. Unless specified otherwise by the court, the reimbursement ordered under the bill would have to be made immediately. The court could require, however, that the person reimburse the costs within a specified period or in specified installments.

If the convicted person were sentenced to probation or paroled from incarceration, any reimbursement that was ordered would have to be a condition of probation or parole. If the person failed to comply with the reimbursement order and had not made a "good faith effort" to do so, parole or probation could be revoked. When determining whether to revoke probation or parole, the court or parole board would have to consider the person's employment status, earning ability, number of dependents, and financial resources, the willfulness of the failure to pay, and other special circumstances that had a bearing on his or her ability to pay. A person could not be incarcerated for failure to make a reimbursement unless the court determined that he or she had the resources to pay and had not made a good faith effort to do so.

Reimbursement orders made under the bill could be enforced by the prosecuting attorney for the unit of government to be reimbursed.

Proposed MCL 769.1e

BACKGROUND

San Jose, California and at least two Michigan cities (Lincoln Park and Lansing) have enacted ordinances that allow persons who commit drug- and alcohol-related driving offenses to be charged for the costs of emergency responses to the offense.

San Jose reportedly has been billing offenders for amounts ranging from \$120 to \$400 and collected \$153,000 in the

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program's first seven months. Lincoln Park has begun actions to bill two recently convicted offenders, but has not yet collected. The Lincoln Park ordinance permits the city to charge up to \$500, which is the maximum allowable fine under the city's charter. The Lansing ordinance has not yet taken effect, but will allow reimbursements to be charged prior to conviction.

FISCAL IMPACT

In 1987, there were approximately 64,000 arrests made in Michigan for drunk driving (OUIL). The Michigan State Police (MSP) was involved in 10,000 or 16% of these OUIL arrests. In 1987, there were also 34,465 drinking involved accidents which resulted in personal injury, personal damage, or fatality, all of which required emergency response. If one assumes that the MSP was also involved in 16% of these accidents (since the MSP does not break down arrests by "emergency response") and that the average accident and arrest required three hours time (includes time from initial contact, arrest, breath testing and lodging processing), the potential annual State revenue would be: 5,514 annual accidents \times \$150/accident = \$827,100

The revenue impact on local units would vary depending on the type of emergency unit sent, i.e., police or fire, local costs, and number of accidents per year. As a comparison, the City of Lansing estimates that, on average, it costs \$130 to respond to an accident (.75 cents/minute for two officer patrol cars and/or \$1.15/minute for a fire engine).

ARGUMENTS

Supporting Argument

Drunk drivers not only cause pain and despair to innocent victims, but cost taxpayers substantial sums of money in the form of police, fire department, and medical service responses to their driving violations. It is only fair that these offenders should be held financially accountable for their unthinkable actions. Law-abiding taxpayers should not have to pay the bill for emergency services due to the errors in judgment of those who choose to drink and drive illegally. The bill would save taxpayers the cost of emergency responses.

Supporting Argument

Impaired driving offenses are among the most common, and yet most preventable violations of the law. Efforts in recent years to punish drunken drivers more severely seemingly have had little effect. The problem of impaired drivers still is very serious and any legal measure that would urge people to stop and think before drinking and driving should be supported. By giving judges the discretion to issue a reimbursement order as part of a sentence for an impaired driving offense, the bill would send out a strong message that drunken drivers literally would have to pay for their actions. If the threat of incarceration will not discourage people from irresponsible drinking and driving, perhaps a threat to their pocketbook will be an effective deterrent.

Response: Issuing a reimbursement order should not be left up to a judge's discretion. It should be a mandatory component of a convicted offender's sentence or be left to the discretion of the units of government whose agencies responded to the incident. The certainty of a penalty contributes to its effectiveness.

Supporting Argument

Although the cities of Lincoln Park and Lansing have enacted ordinances that are similar to the bill, some local units of government reportedly are hesitant to require reimbursements for emergency services because of concerns that such an action may not be within a local unit's jurisdiction. Implementing a statewide system for requiring reimbursements would ease those concerns by avoiding the need for a local ordinance.

Opposing Argument

The bill is being proposed and supported simply because impaired driving offenses are a current emotional and visible issue. Other criminal offenses (such as assaults and burglaries) are much more deliberate and their investigations much more costly and time-consuming, yet the bill targets only impaired driving offenses.

Response: Perhaps other offenses also should be subject to reimbursement orders. If the system that the bill would implement proves successful, then maybe it will serve as a pioneering precedent.

Opposing Argument

The bill may not go far enough to improve law enforcement efforts. Simply ordering reimbursement for services is a step in the right direction, but additional fines should be imposed for use of breathalyzer equipment. This would provide a revenue source for the purchase of new, state-of-the-art infrared breathalyzers. The technologically improved equipment requires less time to analyze alcohol content and to train police officers in the use of the machines. If fines could be assessed to pay for the new equipment, officers could spend less time on paper work and more time on patrol, which could improve enforcement efforts.

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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.