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SUSPEND DRIVER'S LIC. FOR DRUG POSS.

House Bill 4365 as passed by the House
Second Analysis (8-20-90)

Sponsor: Rep. Floyd Clack
House Committee: Transportation
Senate Committee: State Affairs, Tourism &
Transportation

THE APPARENT PROBLEM:

Substance abuse among Americans has increased dramatically over the last two decades, especially the illicit use of powerfully addicting drugs such as cocaine and so-called "crack." Heavy trafficking and use of drugs directly influences the crime rate, endangers the lives of citizens, erodes community morale, and costs governments and private industry billions of dollars for law enforcement, drug prevention, and drug rehabilitation programs. Efforts to reduce the drug problem focus on educating the public on the dangers of even minimal illicit drug use ("just say no"), reducing the flow of illegal substances into — and throughout — the country, and exacting stiffer penalties on drug traffickers and users. The initial concentration of drug trafficking, once drugs have infiltrated national borders, tends to occur in and around larger metropolitan areas. From there, drugs are spread to outlying areas by drug dealers and others involved in extensive organized crime rings. Michigan's largest city, Detroit, is situated in the midst of a huge transportation infrastructure linked by roads, highways, and interstate freeways. This network of roads, in turn, links the city to the rest of the state and provides drug traffickers who have vehicles perhaps the best means of transporting their illegal goods both within the city and throughout the state. Some people feel criminal drug trafficking could be reduced if persons convicted of drug possession while operating vehicles in public places had their driver's licenses suspended.

THE CONTENT OF THE BILL:

The bill would amend the vehicle code to provide for the suspension for at least 60 days but not more than one year of a person's driver's license when that person was charged with violating controlled substance provisions of the public health code and convicted of possessing a controlled substance, controlled substance analogue, or counterfeit substance in a motor vehicle on a public highway or other place open to the general public during the alleged violation. If a person were so charged, the prosecuting attorney would have to include a statement on the court-filed complaint stating to the person the nature of the charge, and notifying the person that, if he or she was convicted and the judge determined he or she possessed the substance in a motor vehicle in a public place, the person would lose his or her driving privileges for at least 60 days but not more than one year. The secretary of state would immediately suspend a person's license who was convicted under the bill for a period of at least 6 months but not more than 1 year as specified in the certificate of conviction forwarded to the secretary of state.

A court would have to order the secretary of state to suspend for up to one year a person's driver's license who was convicted under the bill's provisions. The court could order the secretary of state to issue a restricted license to such a person permitting him or her during all or a specified

portion of the suspension period to drive only to and from specified places (i.e. home and work, drug rehabilitation program, school, and the like). A restricted license could not be court-ordered unless the person stated under oath, and the court found, that the person was unable to take public transportation to the designated destinations, and he or she did not have family members or others to provide transportation. The court order and license would have to indicate the person's work location and an approved route(s) and permitted times of travel. ("Work location" would mean the specific place(s) of employment and/or the territory or territories regularly visited by the person in pursuing his or her occupation.)

The court could not order the issue of a restricted chauffeur's license which would allow a person convicted under the bill to operate a truck or truck tractor, including a trailer, which hauled hazardous materials.

Before it accepted a plea of guilty that would result in a license suspension, the court would have to advise the accused of the statutory consequences possible from a plea of guilty in respect to suspension of a driver's license, the penalty imposed for violating the bill, and the limitation on the right of appeal.

The driver's license of a person found guilty of violating the bill's provisions would have to be surrendered to the court in which the person was convicted. The court would have to immediately forward the surrendered license and an abstract of conviction (which would indicate the sentence imposed) to the secretary of state. Upon receipt of, and pursuant to, the abstract of conviction, the secretary of state would have to suspend the person's license and, if ordered by the court and the person was otherwise eligible for a license, issue to the person a restricted license stating any limited driving privileges indicated on the abstract. If the license was not also forwarded, an explanation for its absence would have to be attached. If the conviction was appealed, the appellate court could, ex parte, order the secretary of state to rescind the suspension, revocation, or restricted license issued pursuant to the bill.

MCL 257.319; 257.323; and 257.732

FISCAL IMPLICATIONS:

According to the Department of State, the bill would have a minimal fiscal impact on the department as its duties in carrying out license suspensions and revocations would increase under the bill (although how much could not be determined). (8-21-90)

ARGUMENTS:

For:

Drug trafficking and abuse have become perhaps the most threatening social problem in this nation during the last decade. Illegal use of controlled substances such as

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cocaine destroys the lives (and families) of abusers, while drug trafficking contributes significantly to the crime rate. The bill would attempt to minimize the flow of drugs throughout the state by suspending the driver's license of a person convicted of drug possession while operating a vehicle in a public place. While threatening drug dealers and others who deliver drugs with license suspension probably would not deter them from their illegal activities (such a risk would seem trivial next to the money that could be made in selling drugs), it could help reduce drug traffic over the state's roadways by limiting traffickers from transporting drugs by car — probably the most convenient method of transport for most dealers. Also, the threat of a long suspension of driving privileges could deter persons from involvement in casual drug use. The bill, however, would allow a restricted license to be granted for work, school, drug rehabilitation, and the like.

Response: License suspension has, particularly in the case of drunk drivers, proved to be an ineffective deterrent. Allowing persons convicted of drug crimes the ability to obtain restricted licenses would only weaken what is already a feeble deterrent.

Against:

Though drug dealers probably contribute the most to the spread of drugs, and laws designed to curb drug trafficking certainly should be aimed at punishing these persons, a person charged with violating drug laws — or any laws — should be granted equitable treatment under the law. For instance, a passenger in a vehicle could be unaware of the driver's concealed drugs, or vice-versa. The bill should ensure that a person alleged to have violated drug possession laws would be entitled to due process and could appeal a court decision. (The bill originally was tie-barred to House Bill 5213, which would provide for these protections.)

Against:

Current laws designed to attack the drug problem have not worked mainly because large profits in drug trafficking make the risks of getting caught (not to mention the slight chance of being convicted or sent to jail — since courts and prisons are so overcrowded now) seem small. Suspending a convicted drug dealer's driver's license would only encourage such a person to drive illegally once he or she had served what probably would be a light sentence.

POSITIONS:

The Department of State Police supports the bill. (8-21-90)

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