



**House
Legislative
Analysis
Section**

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UNINSURED MOTORISTS: ENFORCEMENT

House Bill 4540 with committee amendment
First Analysis (11-14-89)

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Sponsor: Rep. Joseph Palamara
Committee: Insurance

DEC 19 1989

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THE APPARENT PROBLEM:

The Insurance Code requires motorists to carry certain kinds of insurance coverages. The failure to carry mandatory no-fault coverages is a misdemeanor. Insurance specialists say the law is difficult to enforce because the burden of proof is on prosecutors: they must establish that a person does not have insurance in force. This is difficult because there is no central registry and the records of more than 100 companies must be searched to prove the lack of insurance coverage. Motorists are required (in the Michigan Vehicle Code) to produce proof of insurance at the request of a police officer, but the failure to do so is a civil infraction and not a misdemeanor. (The citation is waived if a motorist produces the proof of insurance by the appearance date on the citation.) The difficulty in establishing a violation of the mandatory insurance laws means that violations are reduced to a civil infraction with its lesser penalties. It has been proposed that the burden of proof be shifted to the motorist by making it a rebuttable presumption that anyone without proof of insurance is uninsured.

THE CONTENT OF THE BILL:

The bill would amend the Insurance Code to specify that failure to produce evidence upon the request of a police officer that a motor vehicle or motorcycle has mandatory insurance coverages would be a misdemeanor. (Currently, failure to carry mandatory coverage is a misdemeanor but not the failure to have proof of insurance. That is, however, a civil infraction under the Michigan Vehicle Code.) The penalty would be a fine of not less than \$200 or more than \$500, imprisonment for more than one year, or both. If a person produced evidence on or before the appearance date that the required insurance had been in effect on the date in question, any fine, costs, and imprisonment would be waived.

MCL 500.3102

FISCAL IMPLICATIONS:

The Insurance Bureau has said that the bill has no revenue or budgetary implications. (11-9-89)

ARGUMENTS:

For:

The bill aims at improving enforcement of the mandatory insurance law by making it a rebuttable presumption that anyone without proof of insurance is uninsured. Motorists could be charged with a misdemeanor for not carrying their proof of insurance; the charge would be dropped if proof of insurance was submitted on or before the appearance date. Currently, prosecutors must establish that a driver has no insurance, which insurance specialists say requires

researching the records of more than 100 insurance companies because there is no central registry. The bill will make it more likely that the penalties the legislature intended be imposed against uninsured motorists will be imposed.

Against:

Many people who fail to carry mandatory no-fault automobile insurance coverages are hard-pressed financially. Making it easier to impose a large fine on such drivers (or imprisonment) appears harsh. (They can be subjected to a civil fine under the vehicle code currently and can have their licenses suspended until proof of insurance is submitted.) Further, by buying and then dropping insurance it is possible to have proof of insurance but not be insured. The bill does not address this. Moreover, compliance with the mandatory insurance law is said to be quite high.

Response: The penalties for failure to carry insurance are already in the law; the bill does not change them. The bill makes it easier to enforce existing law and impose existing penalties.

POSITIONS:

The Insurance Bureau supports the bill. (11-9-89)

H.B. 4540 (11-14-89)