



**House
Legislative
Analysis
Section**

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UNINSURED MOTORISTS: ENFORCEMENT

House Bill 4540 as enrolled
Second Analysis (7-26-90)

OCT 08 1990

Sponsor: Rep. Joseph Palamara Mich. State Law Library
House Committee: Insurance
Senate Committee: Commerce & Technology

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 the failure to produce evidence that a motor vehicle or motorcycle is insured creates a rebuttable presumption in a subsequent prosecution that the coverages were not in force when the citation was issued.

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. (The charge could be rebutted, obviously, by proving that a vehicle was insured at the time the citation was issued.) 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 wants 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.

H.B. 4540 (7-26-90)