

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

House Bill 4540 (as reported without amendment)

Sponsor: Representative Joseph Palamara

House Committee: Insurance

Senate Committee: Commerce and Technology

Date Completed: 4-30-90

RATIONALE

The Insurance Code requires motorists to carry certain kinds of insurance coverages. The failure to carry mandatory no-fault coverages is a misdemeanor. It has been argued that 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 apparently is difficult because there is no central registry and the records of more than 100 insurance companies must be searched to prove the lack of coverage. While motorists are required (under the Michigan Vehicle Code) to produce proof of insurance at the request of a police officer, 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. It has been proposed that if the burden of proof were shifted to the motorist, by making it a rebuttable presumption that anyone without proof of insurance was uninsured, then the difficulty of enforcement would be eased.

CONTENT

The bill would amend the Insurance Code to specify that failure to produce evidence that a motor vehicle or motorcycle has mandatory insurance coverages in full force and effect on the date a citation is issued would create a rebuttable presumption in a prosecution for operating a motor vehicle or motorcycle without insurance that the vehicle was uninsured.

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS**Supporting Argument**

The bill aims at improving enforcement of the mandatory insurance law by making it a rebuttable presumption that anyone without proof of insurance was uninsured. Motorists could be charged with a misdemeanor for not carrying their proof of insurance; the charge could be dropped if proof of insurance were submitted on or before the appearance date. Currently, prosecutors must establish that a driver has no insurance, which requires researching the records of more than 100 insurance companies because there is no central registry. The bill would make it more likely that the penalties in the Code that were intended to be imposed against uninsured motorists actually were imposed.

Opposing Argument

Many people who fail to carry mandatory no-fault automobile insurance coverages are hard-pressed financially. Making it easier to impose a large fine (or imprisonment) on such drivers appears harsh. (They can be subjected to a civil fine under the Vehicle Code currently and can have their license suspended until proof of insurance is submitted.) Moreover, compliance with the mandatory insurance law is said to be quite high.

MCL 500.3102

H.B. 4540 (4-30-90)

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

Opposing Argument

By buying and then dropping insurance it is possible to have proof of insurance but not be insured. The bill does not address this.

Legislative Analyst: G. Towne
Fiscal Analyst: J. Schultz

H8990/S4540A

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.