



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

COMM'L DRUNK DRIVING RULES

House Bill 4160

Sponsor: Rep. Michael E. Nye

Committee: Transportation

Complete to 5-6-91

A SUMMARY OF HOUSE BILL 4160 AS INTRODUCED 2-7-91

The Michigan Vehicle Code specifies that a person is guilty of operating a motor vehicle while under the influence of intoxicating liquor (OUIL) if he or she is found to have a blood alcohol content (BAC) of .10 percent or higher while driving, and also allows a person to be stopped and ticketed for driving while impaired (meaning a person's ability to operate a vehicle safely is visibly impaired even though his or her BAC is below the legally defined OUIL limit). Habitual offenders can have their licenses suspended or revoked. These provisions now apply equally to all drivers, including to persons who operate commercial motor vehicles. The bill would add to the act more stringent drunk-driving standards for drivers of commercial vehicles and stricter penalties for a person convicted of operating a commercial motor vehicle in violation of the bill's provisions. Specifically, the bill would prohibit operation of a commercial vehicle on state roadways with a BAC of .015 percent or more, but specifies that a person who violated this provision would not be guilty of either a civil infraction or criminal violation of the act. However, a person who operated a commercial motor vehicle with a BAC of .04 percent but not more than .07 percent would be subject to certain penalties provided for under the bill. The bill would take effect January 1, 1993.

BAC Limit for Commercial Drivers. The bill would prohibit a person whether licensed or not with a BAC of .04 percent but not more than .07 percent from operating a commercial motor vehicle in the state, and would permit a police officer to arrest a person without a warrant if the officer had reasonable cause to believe the person was, at the time of an accident, the driver of a commercial motor vehicle involved in the accident who was driving in violation of the bill or a local ordinance substantially corresponding to the bill.

A person convicted of violating the bill or a similar law would be guilty of a misdemeanor and could be punished by imprisonment for up to 90 days or a fine of \$300, or both, together with costs of the prosecution. As part of the sentence, the court would order the secretary of state to suspend the person's operator's or chauffeur's license as specified elsewhere in the act. The court could not order the secretary of state to issue a restricted license that would permit the person to drive a commercial motor vehicle. A person who violated the bill or a similar law within 10 years of a prior conviction (including a conviction in another state) could be sentenced to imprisonment for up to one year or a fine of up to \$1,000, or both. As part of the sentence, the court would have to order the secretary of state to revoke the vehicle group designations on the person's driver's license as provided for in the act.

Suspension, Revocation of License. The bill would require the secretary of state to suspend a commercial driver's license (for as little as 60 days or for life, depending on the

violation) of a person upon notice from a court or administrative tribunal that the person was responsible for violating certain drunk-driving laws, or that the person had refused the request of a police officer to submit to a chemical test of his or her blood, breath, or urine that could determine the person's BAC or presence of a controlled substance or both while the person was driving a commercial motor vehicle. The bill would prohibit operation of a commercial vehicle with a BAC of .015 percent or more, but specifies that a person who failed to comply with this provision would not be guilty of a civil infraction or criminal violation of the act.

The secretary of state would have to revoke all vehicle group designations on a person's driver's license for at least 10 years and until the person was approved for driver's licensing upon notification that a person had been convicted, or notice that a court or administrative tribunal had found the person responsible for one or more of various drunk-driving violations within a 10-year period. The bill would add to the list of violations that would trigger this provision two separate incidents of refusing to submit to a chemical test to determine the alcohol or controlled substance content of the blood. A determination by a court of original jurisdiction or by an authorized administrative tribunal that a person had violated the law would be considered a conviction. When determining the applicability of conditions involving certain drunk driving violations, the secretary of state currently can only consider violations that occurred after October 1, 1989; the bill would change this date to January 1, 1990.

Breath Test, Out-of-Service Order. The bill would permit a police officer to request a preliminary chemical breath test if the officer had reasonable cause to believe a person had been operating a commercial motor vehicle while he or she had any detectable presence of alcohol, or the person's blood contained any measurable amount of alcohol by weight. A person believed to be operating a commercial vehicle in violation of the .015 percent BAC maximum, or a commercial vehicle driver who refused to submit to a preliminary chemical test, would have to be issued an immediate 24 hour "out-of-service" order by a police officer. A preliminary breath test could be used to issue an out-of-service order to the person. A person so ordered could not drive a commercial motor vehicle during the 24-hour order period, and violation of an out-of service order would be a misdemeanor. Also, an officer who issued such an out-of-service order would have to provide for the safe and expeditious disposition of a hazardous material carried by the vehicle that could damage the vehicle, human health, or the environment.

Reciprocity with Other States. If an applicant for an original vehicle group designation was previously licensed in another jurisdiction, the secretary of state would have to request a copy of the applicant's driving record from that jurisdiction. If the applicant had his or her license suspended, revoked, cancelled or denied for reasons identified in the act, or if he or she had a history of other driving problems in his or her home jurisdiction, the secretary of state would have to cancel all vehicle group designations on the person's driver's license. Certain reasons for which the secretary of state would have to cancel vehicle group designations would not apply to an applicant for an original vehicle group designation who at the time of application had a valid class 1, class 2, or class 3 indorsement under the act or a valid commercial driver's license issued by any other state.

Other Provisions. A person convicted of violating the bill's provisions would only be entitled to an appeal based on the merits of the action; an appeal based on hardship to a convicted person would not be allowed. The bill would prohibit the secretary of state from issuing a restricted commercial driver's license if a person refused to take a chemical test while operating a commercial motor vehicle. The bill would require a court to order the department to suspend the commercial driver's license of a person convicted of violating certain drunk-driving laws while driving a commercial motor vehicle. Also, the department could not issue a restricted commercial driver's license, nor could the court require the secretary of state to issue a restricted commercial driver's license, to such a person.

The bill specifies that a person who operated a commercial motor vehicle in the state after any of the following had occurred would be guilty of a misdemeanor and could be imprisoned for not less than three days or more than 90 days, or be fined not more than \$100, or both:

- * If the person's vehicle group designation was suspended or revoked and he or she had been notified of this by the secretary of state;
- * If a person's application for a vehicle group designation had been denied; or
- * If a person had never applied for a vehicle group designation.

The act currently exempts certain persons from the licensing requirements. The bill would add an exemption for a person who was taking a road test with a certified examiner appointed by the Department of State.

Currently, a group A vehicle designation is required to drive a vehicle towing another vehicle with a gross vehicle weight rating (GVWR) over 10,000 pounds, and a group B designation is required before operating a single vehicle or a combination of vehicles with a GVWR over 26,000 pounds when the towed vehicle's GVWR is 10,000 pounds or less. Specific tests for each of these group designations is required before a vehicle can be operated. The bill specifies that a person who took the driving test required for a group A designation in a combination of vehicles having a gross combination weight rating (GCWR) less than 26,001 pounds could not operate a single vehicle with a GVWR of 26,001 pounds or more, or any combination of vehicles with a GCWR of 26,001 pounds or more if the vehicle being towed had a GVWR of 10,001 pounds or more or the towing vehicle had a GVWR of 26,001 pounds or more.

Someone with a group B vehicle designation that was not restricted under the act and who took the driving test required for a group A designation in a combination of vehicles with a GCWR under 26,001 pounds could not operate any combination of vehicles with a GCWR of 26,001 pounds or more if the towed vehicle had a GVWR of 10,001 pounds or more. And, finally, someone who took the driving test required for a group B vehicle designation in a combination of vehicles in which the towing vehicle had a GVWR under 26,001 pounds could not operate a single vehicle with a GVWR of 26,001 pounds or more, or any combination of vehicles if the towing vehicle had a GVWR of 26,001 pounds or more.

MCL 257.7a et al.