



A SUMMARY OF HOUSE BILL 4351 AS INTRODUCED 2-20-91

The 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 amend the act to specify that 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.

BAC Limit for Commercial Drivers. Under the bill, a person (whether licensed or not) with a BAC of .04 percent but not more than .07 percent could not operate a commercial motor vehicle in the state. A police officer could 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 have to order the secretary of state to suspend or revoke the person's operator's or chauffeur's license (depending on the violation) 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.

Suspension, Revocation of License. The bill would require the secretary of state to suspend or revoke the commercial driver's license (for as little as one year or for life, depending on the violation or the number of occurrences) of a person upon receiving notice that the person was responsible for violating certain drunk-driving laws. 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 of two drunk-driving violations (whether as a commercial driver or otherwise). Points, however, could not be entered for a violation under the bill.

Breath Test. A police officer could request a preliminary chemical breath test if the officer had reasonable cause to believe a person had been operating a commercial motor vehicle in violation of the bill. A person who was arrested for violating the bill's provisions

or a substantially similar local law would be considered to have given consent to chemical tests of his or her blood, breath, or urine in order to determine his or her BAC or the presence of a controlled substance. The amount of alcohol or presence of a controlled substance, or both, in an alleged violator's blood as indicated by chemical analysis would be admissible into evidence in a criminal prosecution for a violation under the bill. The act currently permits appeals to be made to a circuit court when a person is aggrieved by a decision by the secretary of state to revoke, suspend, or otherwise deny a person a driver's license; this would not apply for a violation that occurred under the bill.

Other Penalties. 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. In addition, 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.

MCL 257.312f et al.