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DRUG POSS.: LOSE DRIVER'S LIC.

House Bills 4074 and 4075
Sponsor: Rep. Floyd Clack
Committee: Transportation

Complete to 3-4-93

A SUMMARY OF HOUSE BILLS 4074 AND 4075 AS INTRODUCED 2-2-93

The bills would amend the Michigan Vehicle Code and the Public Health Code to provide for the suspension for at least 60 days but not more than one year of a person's driver's license when he or she was charged with violating controlled substance provisions of the Public Health Code and convicted of possessing a controlled substance, controlled substance analogue, or counterfeit substance in a motor vehicle on a public highway or other place open to the general public during the alleged violation. Neither bill could take effect unless both were enacted.

House Bill 4074 would amend the Michigan Vehicle Code (MCL 257.319, 257.323 and 257.732) to specify that if a person were charged with controlled substance violations, the prosecuting attorney would have to include a statement on the court-filed complaint stating to the person the nature of the charge, and notifying the person that if he or she was convicted and the judge determined he or she possessed the substance in a motor vehicle in a public place, the person would lose his or her driving privileges for at least 60 days but not more than one year. (This would also apply if a minor was involved in such a violation.) Upon receipt of the record of a person's conviction or the entry of a probate court order of disposition for the person for violating the bill's provisions, the secretary of state would immediately have to suspend the person's license for the period specified as ordered by the court under the sentence or disposition. The bill would not permit appeals to the circuit court if a person was aggrieved by the final determination of the secretary of state to suspend the person's license.

If a person's driver's license was suspended for drug possession, the court that ordered the secretary of state to suspend the license could also order that a restricted license be issued to the person that would permit him or her during all or part of the suspension period to drive only to and from certain specified places (i.e. home and work, drug rehabilitation program, school, and the like). A restricted license could not be court-ordered unless the person stated under oath, and the court found, that the person was unable to take public transportation to the designated destinations and he or she did not have family members or others who could provide transportation. The court order and license would have to indicate the person's work location and an approved route(s) and permitted times of travel. ("Work location" would mean the specific place(s) of employment and/or the territory or territories regularly visited by the person in pursuing his or her occupation.) The court, however, could not order the issue of a restricted chauffeur's license that would allow a person convicted under the bill to operate a truck or truck tractor, including a trailer, which hauled hazardous materials.

House Bills 4074 and 4075 (3-4-93)

House Bill 4075 would amend the Public Health Code (MCL 333.7401 et al.) to specify that if a person possessed a controlled substance, counterfeit substance or controlled substance analogue in a motor vehicle on a public highway or other place open to the general public, as part of the sentence the court would have to order the secretary of state to suspend the person's driver's license for at least 60 days but not more than 1 year. Before it accepted a plea of guilty that would result in a license suspension, the court would have to advise the accused of the statutory consequences possible resulting from a guilty plea, including suspension of his or her license, the penalty imposed for the violation, and the limitation on the right to appeal.

If a person's license was suspended, the court could order the secretary of state to issue the person a restricted license allowing the person to drive during all or part of a specified period, as provided for under a portion of the vehicle code which covers the issuance of restricted licenses. A person would have to surrender his or her license to the court upon suspension, and the court would immediately forward the surrendered license and an abstract of conviction (which would have to indicate the sentence imposed) to the secretary of state. Upon receipt of and pursuant to the abstract of conviction, the secretary of state would have to suspend the person's license and, if ordered by the court and the person was otherwise eligible, would have to issue to the person a restricted license stating its limitations on driving. If the license was not forwarded to the secretary of state, an explanation would have to be attached saying why. If the conviction was appealed, the appellate court could, ex parte, order the secretary of state to rescind the suspension, revocation, or restricted license.