



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 36 (Substitute S-1 as reported)
Sponsor: Senator Michael J. Bouchard
Committee: Judiciary

CONTENT

The bill would amend Chapter 47 of the Revised Judicature Act, which provides for the seizure and forfeiture of property that is the proceeds or instrumentality of a crime, to include all of the following violations of the Michigan Vehicle Code in the list of crimes to which seizure and forfeiture proceedings apply:

- Operating a vehicle while under the influence of liquor or a controlled substance (OUIL), when the violation occurred within 10 years of two or more prior convictions.
- Operating a vehicle while visibly impaired due to the consumption of liquor or a controlled substance (OWI), when the violation occurred within 10 years of two or more prior convictions.
- OUIL or OWI that caused the death of another person.
- OUIL or OWI that caused the serious impairment of a body function of another person.

Under the Vehicle Code, for the OUIL offense, "prior conviction" means an OUIL violation, or an OUIL or OWI violation that caused the death or serious impairment of a body function of another person. For the OWI offense, "prior conviction" means an OUIL or OWI violation, or an OUIL or OWI violation that caused the death or serious impairment of a body function of another person. The bill would take effect on January 1, 1996.

MCL 600.4701

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill could result in the distribution of additional proceeds from seizures and forfeitures of property to units of government involved in effecting a forfeiture, though the amount of the distribution cannot be determined at this time. Under Public Act 104 of 1988, the distribution of proceeds is done in the following order of priority:

- To pay any outstanding security interest of a secured party who had no prior knowledge of, nor had consented to, the commission of the crime.
- To satisfy any order of restitution in the prosecution of the crime.
- To pay the claim of each person who showed that he or she was a victim of the crime to the extent that the claim was not covered by an order of restitution.
- To pay any outstanding lien against the property that was imposed by a governmental unit.
- To pay the proper expenses of the proceedings for forfeiture and sale.

The balance must be distributed by the court to the unit or units of government involved in effecting the forfeiture. Of the amount received by a unit of government, 75% must be used to enhance law enforcement and 25% to implement the Crime Victim's Rights Act.

Date Completed: 5-10-95

Fiscal Analyst: B. Baker

floor\sb36

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.