



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 36

Sponsor: Senator Michael J. Bouchard

Committee: Judiciary

Date Completed: 5-9-95

SUMMARY OF SENATE BILL 36 as introduced 1-17-95:

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.

"Serious impairment of a body function" includes, but is not limited to, one or more of the following:

- Loss of a limb, hand, foot, finger, or thumb or the use of limb, hand, foot, finger, or thumb.
- Loss of an eye or ear or use of an eye or ear.
- Loss or substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state that lasts for more than three days.
- Measurable brain damage or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or subdural hematoma.

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, including, but not limited to, expenses incurred during the seizure process, maintaining custody of the property, advertising expenses, and court costs.

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.

Fiscal Analyst: B. Baker

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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.