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BILL



ANALYSIS

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Senate Bill 420

Sponsor: Senator Robert Geake

Committee: Judiciary

Date Completed: 4-18-95

SUMMARY OF SENATE BILL 420 as introduced 3-21-95:

The bill would amend the Michigan Vehicle Code to do all of the following:

- Specify that it would be a civil infraction for a person less than 21 years old knowingly to transport or possess liquor, in a motor vehicle, unless he or she were legally employed in the transport of liquor.
- Provide for the suspension of the driver's license of a person under 21 who illegally purchased, possessed, consumed, or transported liquor.
- Require a law enforcement agency to notify the parents of a person less than 18 years of age who illegally transported or possessed liquor in a vehicle.
- Specify that illegal possession, purchase, or consumption of alcohol by a person under 21 would not be considered a violation for any purpose under the section of the Code that provides for points to be assessed against a person's driver's license.
- Delete a provision that requires \$30 of every \$125 license reinstatement fee to be deposited by the Department of Treasury into the Underage Drinking Case Information Management Fund, when the license suspension was imposed for a drunk driving violation.

The bill would take effect on October 1, 1995, and is tie-barred to Senate Bill 258. That bill would amend the Michigan Liquor Control Act to provide for the suspension of the driver's license of a person under 21 who illegally purchased, possessed, or consumed alcohol and repeal the section of that Act that makes it a misdemeanor for a person under 21 to transport or possess liquor in a motor vehicle.

Transport/Possession in a Vehicle

Senate Bill 420 would place in the Vehicle Code the Liquor Control Act's prohibition against a person less than 21 years of age knowingly transporting or possessing liquor, in a motor vehicle, unless the person is employed by a liquor licensee, a common carrier designated by the Liquor Control Commission to transport liquor, the Commission, or an agent of the Commission and the transport or possession occurs during regular working hours and in the course of employment. Under the bill, the violation would be a civil infraction; under the Liquor Control Act, the violation is a misdemeanor. In addition, the bill specifies that it would not prohibit a person under 21 from knowingly transporting liquor in a motor vehicle if a person at least 21 years old were present inside the vehicle.

License Suspensions

Possession, Purchase, or Consumption. If a person were cited with, or were determined to be responsible for, a minor's illegal possession, purchase, or consumption of alcohol, and he or she failed to answer a citation or notice to appear in court, or failed to comply with an order or judgment issued for that violation, the court immediately would have to notify the person by first-class mail that if he or she failed to appear within seven days or failed to comply with the court's order or judgment within 14 days, the Secretary of State would suspend his or her driver's license. If the person failed to meet those deadlines, the court immediately would have to inform the Secretary of State, who would have to suspend the person's license immediately and notify him or her of the suspension by first-class mail.

Transport or Possession in a Vehicle. Immediately upon the entry of a civil infraction determination or probate court order of disposition for a minor's illegal transport or possession of alcohol in a vehicle or the entry of a default judgment, the court would have to consider all prior civil infraction determinations or probate court orders of disposition.

If the court found that the person had one prior civil infraction or probate court order of disposition, it would have to order the Secretary of State to suspend the person's driver's license for at least 90 days but not more than 180 days. The court could order the Secretary of State to issue a restricted license after the first 30 days of the suspension. In the case of a person who did not possess a driver's license, the Secretary of State would have to deny the application for a license for the applicable suspension period.

If the court found that the person had two or more prior civil infraction determinations or probate court orders of disposition, it would have to order the Secretary of State to suspend the person's driver's license for at least 180 days but not more than one year. The court could order the Secretary of State to issue a restricted license after the first 60 days of the suspension. In the case of a person who did not possess a driver's license, the Secretary of State would have to deny the application for a license for the applicable suspension period.

The court immediately would have to forward the surrendered license and an abstract of conviction to the Secretary of State. A suspension ordered for this violation would have to be in addition to any other suspension of the person's driver's license. If the judgment were appealed to circuit court, the court could, ex parte, order the Secretary of State to stay the suspension of the license pending the outcome of the appeal.

Parental Notification

Upon determining that a person under 18 allegedly transported or possessed alcohol in a vehicle, a law enforcement agency would have to notify the person's parent or parents, custodian, or guardian as to the nature of the violation if the name of the parent, guardian, or custodian were reasonably ascertainable. The notice would have to be made not later than 48 hours after the agency determined that the person was less than 18 years old and could be made in person, by telephone, or by first-class mail.

MCL 257.320e et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

Courts. The new requirements would increase administrative costs to local courts. The costs would be dependent on the number of these types of cases that came before the courts.

Law Enforcement. Law enforcement agencies could experience a minimal increase in labor requirements due to the bill's parental notification provision, but not to such a significant degree that the increase would result in additional operational costs.

Department of State. The Department of State's costs would be supported by its share of the driver's license reinstatement fee.

Fiscal Analyst: L. Nacionales-Tafoya
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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.