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THEFT PREVENTION ASSESSMENT

House Bill 4769 as introduced
First Analysis (2-17-98)

Sponsor: Rep. William Callahan
Committee: Insurance

THE APPARENT PROBLEM:

The Michigan Automobile Theft Prevention Authority was created by Public Act 10 of 1986 to provide financial support to a variety of efforts aimed at reducing the incidence of automobile theft, which had been identified as a significant contributor to high auto insurance rates. While housed in the Department of State Police for administrative purposes, the authority is run by a seven-member board representing insurance companies, law enforcement, and consumers. (The current chair is the state police director.) It is funded by a $1 per car assessment paid annually by auto insurers and distributes grants to support anti-theft activities around the state. Grants go to police departments, sheriff's departments, state police teams, county prosecutors, and private nonprofit groups. (For 1998, according to ATPA reports, 89 percent of funds will go to law enforcement, 10 percent to prosecutors, and 1 percent to nonprofits. All but the nonprofits are providing a 25 percent match.) ATPA advocates say that the vehicle theft rate has decreased in Michigan by about 13 percent over the past decade (1986-1996) while increasing 14 percent nationwide. The state has fallen from being the number one state in auto thefts per capita to seventh. Reportedly, six other states have adopted anti-theft programs modeled on Michigan's. Reducing auto theft reduces the premiums drivers must pay for comprehensive insurance.

Revenue to the ATPA has remained constant over the years, say authority officials, while the cost of operations has been increasing. The result is a reduction in operations. From 1988 to 1997, the number of funded officers was reduced from 99 to 78, according to the authority's 1997 report to the governor and legislature. One way to boost authority revenues would be to expand the base on which the assessment is levied from only private passenger vehicles (private autos) to all motor vehicles, including commercial vehicles, trucks, and motorcycles. Legislation has been introduced to accomplish this.

THE CONTENT OF THE BILL:

Automobile insurers are required to contribute to the Automobile Theft Prevention Authority. The Insurance Code requires each insurer to pay an assessment "equal to $1 multiplied by the insurer's <u>total earned car years</u> of insurance providing the security required by Section 3101(1)." That section requires drivers to carry coverage for personal protection insurance, property protection insurance, and residual liability insurance. House Bill 4769 would amend the code to change the assessment to "$1 multiplied by the insurer's <u>total number of motor vehicles and motorcycles</u> that the insurer provided security for under section 3101(1) or 3103(1)." Section 3103(1) requires motorcyclists to carry liability insurance for property damage, bodily injury, or death suffered by others. The term "motor vehicle" is defined in the code as "a vehicle, including a trailer, operated or designed for operation upon a public highway by power other than muscular power which has more than 2 wheels." The term does not include a motorcycle or moped and does not include a farm tractor or other "implement of husbandry" not subject to the registration requirements of the Michigan Vehicle Code.

The bill also would specify that an assessment paid to the theft prevention fund is not refundable.

MCL 500.6107

BACKGROUND INFORMATION:

Additional information on the Michigan Auto Theft Prevention Authority can be found in its 1997 annual report to the governor and legislature. It should be noted that the ATPA was created by Public Act 10 of 1986 with a sunset date of July 1, 1991. That date was extended on two occasions, with the authority caught up in debates over larger no-fault insurance issues, and the enabling legislation eventually expired. Subsequently, the authority was reinstated retroactively by Public Act 174 of 1992.

FISCAL IMPLICATIONS:

The preliminary estimate from the Automobile Theft Prevention Authority is that the bill would increase authority revenues by $2.3 million, based on the number of relevant vehicle registrations and taking into account that the assessment will no longer be refundable when a policy is canceled. This estimate could be too high because of the numbers of self-insured vehicles. Annual revenues have been in the $5.4 million to $5.7 million range since the inception of the program, according to an ATPA representative. (2-13-98)

ARGUMENTS:

For:

The expansion of the theft prevention assessment proposed in this bill would accomplish several things. It would increase the funding for effective regional anti-theft efforts, funding that has been stagnant for a decade. It would make the assessment fairer by bringing in additional kinds of motor vehicles, whose owners and insurers benefit from current anti-theft activities. It would clarify what some people believe was the original intent of the program; namely, to put a $1 assessment on all vehicles, both private and commercial and both cars and trucks. Also, it would include motorcycles in the program. The anti-theft program is a success; it deserves increased financial support from those who are the primary beneficiaries. Preventing vehicle thefts means fewer claims against insurance companies and lower auto insurance rates for consumers.

The ATPA's 1997 report to the governor and legislature cited among its achievements in 1997: 2,691 recovery incidents; 2,564 arrests; and over 4,400 vehicles etched (through a special vehicle identification program). The report says the law enforcement grantees recovered over $4.75 for every $1 invested. Further, the report says, over the past two years ATPA-funded law enforcement teams were responsible for 1,022 fraud cases and $6.3 million in recoveries. Without these efforts, the report argues, the fraudulent claims would have been paid.

Response:

A better way to administer this program would be through a fee assessed on motor vehicle registrations. That would guarantee that all vehicles are assessed a fee and it would put the fee collection in the hands of a government agency -- the secretary of state's office -- rather than burdening the insurance industry. The bill in its current form would not achieve its aim of assessing all motor vehicles. Many commercial vehicles and fleet vehicles are self-insured and thus would not be subject to a fee collected by insurance companies. This would lead to inequities, with some commercial and fleet vehicles paying the assessment and others not.

For:

Currently, if a driver purchases an auto insurance policy but cancels it before the term is up, there is a refund of a portion of the ATPA assessment. The bill would eliminate this refund. Some people allege that some drivers purchase insurance just to get the documentation to register a vehicle and then drop it and drive uninsured. Stopping refunds will mean such drivers pay the full ATPA assessment.

Against:

Some people oppose the expansion of the assessment. They argue that the ATPA was created to address the problem of stolen private passenger automobiles. That should be its primary focus as its name suggests. Commercial vehicles represent less of a theft problem. Further, critics say there is no proof that the decline in vehicle thefts is the result of the activities of the ATPA; many factors are involved in theft rates. (Indeed, in some years since the authority was created, thefts have increased.) Theft rates have gone down in states without such programs. They also point to criticisms of the ATPA's operation made in a 1995 auditor general's report, including the authority's lack of a comprehensive plan to direct its long-range theft prevention efforts and lack of identification of the most effective and cost-effective ways to combat auto theft.

Against:

The statute currently requires insurance companies to send money to the ATPA based on the number of "total earned car years" of insurance, a calculation that is intended to result in a $1 per car assessment for a full year of insurance. The bill as written would base the assessment on "the total number of motor vehicles and motorcycles" insured in a year. This could lead to drivers paying multiple assessments if they switch insurers several times during a year, since each insurer would count the same vehicle as among the "total number of vehicles."

Response:

This technical problem likely will be addressed as the legislation progresses, as will the issue of how to assess fleet vehicles.

POSITIONS:

Among those indicating support for the bill before the House Insurance Committee were representatives of the Oakland County Prosecutor's Office and the Oakland County Sheriff's Department, the Prosecuting Attorneys

Association of Michigan, and the Fraternal Order of Police. (2-11-98)

Testifying in opposition to the bill were representatives from the Michigan Insurance Federation and the Michigan State Chamber of Commerce. (2-11-98)

A representative from AAA Michigan said the company strongly supports the ATPA and does not oppose the bill. (2-11-98)

Analyst: C. Couch

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.