

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

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bills 625, 626, and 627 (as introduced 6-25-97)

Sponsor: Senator Loren Bennett (Senate Bill 625)

Senator Michael J. Bouchard (Senate Bill 626)

Senator Mike Rogers (Senate Bill 627)

Committee: Judiciary

Date Completed: 2-17-98

CONTENT

Senate Bills 625, 626, and 627 would amend the Michigan Vehicle Code to do all of the following:

- Provide for the confiscation of a vehicle's license plates and the issuance of restricted plates or an order of vehicle immobilization for certain drunk driving violations and for operating a vehicle while a driver's license was suspended, revoked, or denied.
- Provide that the maximum penalty for operating a vehicle while the driver was impaired by liquor or a controlled substance (OWI) when the person had two prior convictions within 10 years, would be the same penalty that applies to operating a vehicle under the influence of liquor or a controlled substance (OUIL) with two prior convictions within 10 years.
- Add to the Code's commercial vehicle drunk driving provision a felony violation for a third offense within 10 years that would be commensurate with the penalty for an OUIL violation within 10 years of two prior convictions.
- Change the definition of "prior conviction" in the Code's drunk driving provisions to include all drunk driving offenses as well as negligent homicide, manslaughter, or murder resulting from the operation of a vehicle. (Currently, "prior conviction" has a different meaning for each drunk driving violation.)
- Require, rather than allow, vehicle seizure and forfeiture for certain drunk driving offenses.
- Require added identifying information on a vehicle title application (i.e., the driver's license number of all owners or lessees or the Federal identification number of a firm, association, or corporation that owned or leased the vehicle).
- Prohibit the transfer of ownership or possession of a vehicle issued a temporary or restricted plate or subject to immobilization.
- Require an added license suspension period of 30 days for driving while a license was suspended or denied.
- Change from 90 to 93 days the maximum sentence for drunk driving misdemeanors.
- Require a \$25 fee, payable to the court, for each failure to answer a citation or notice to appear or failure to pay a fine or cost, rather than a \$25 "license reinstatement fee".
- Provide that license sanctions (points) for a conviction of an attempted violation would have to be assessed as if the offense had been completed, but that a court could not impose a criminal penalty for conviction of an attempt in the same manner as if the offense had been completed, except as provided by law.
- Require a 10-year revocation of a person's driver's license for a drunk driving violation, while driving a commercial vehicle, that caused the death or serious impairment of a body function or for negligent homicide, manslaughter, or murder resulting from the

operation of a commercial motor vehicle.

The bills are tie-barred.

Restricted Plates & Vehicle Immobilization

Senate Bill 626 would require that a peace officer confiscate a vehicle's license plate when the officer detained the driver for a Vehicle Code violation and determined that the person was driving while his or her license was suspended, revoked, or denied. The officer would have to issue a temporary plate, place it on the vehicle, notify the Secretary of State through the Law Enforcement Information Network (LEIN), and issue the person a written notice to appear in court. The prosecuting attorney would have to provide the confiscated plate to the court when he or she filed the complaint.

If the court found that a person was operating a vehicle while his or her driver's license was suspended, revoked, or denied, upon a motion by the prosecuting attorney or on the court's own initiative, the court would have to apply a sanction involving restricted registration plates, the immobilization of a vehicle, or the restricted use of a vehicle by use of a device that prohibited the defendant from operating it. For an offense that involved three or more prior license suspensions, revocations, or denials, the court would have to order that all vehicles in which the person had an interest be forfeited to the State and order the Secretary of State to cancel the registration plates of those vehicles.

The proposed section dealing with temporary or restricted plates and the possibility of vehicle immobilization would not apply to a person who operated a vehicle without a valid driver's license when his or her license was suspended, revoked, or denied for certain violations, including a violation of the Support and Parenting Time Enforcement Act, failing to change his or her address, parking violations, a bad check violation, or an equipment violation.

If ordered by a court, the Secretary of State could issue a restricted registration plate, after the applicant paid the Secretary of State a \$125 service fee in addition to any other applicable registration fees. Each service fee would have to be deposited in the General Fund in the State Treasury and be used first to defray the Secretary of State's expense in administering the restricted registration plate, vehicle immobilization, and vehicle forfeiture programs provided for under the Vehicle Code.

A court would have to order a vehicle immobilized, if required under the Code's drunk driving or license suspension provisions, by the installation of a device that locked the ignition, wheels, or steering of the vehicle in a manner that prohibited its use by any person. The court also could order the vehicle stored at a location and in a manner considered appropriate by the court. The court could order the person convicted of a violation to pay the cost of immobilizing and storing the vehicle. Immobilization would have to continue for all of the suspension, revocation, or denial period that remained or for the period ordered by the court for a drunk driving offense.

A court would have to order an enhanced restricted registration plate, vehicle immobilization, or vehicle forfeiture penalty for a drunk driving offense if the person had one or more prior suspensions, revocations, or denials within the preceding seven years for driving while his or her license was suspended, revoked, or denied. A court also would have to order an enhanced restricted registration plate, vehicle immobilization, or vehicle forfeiture penalty if the person had one or more prior convictions for drunk driving within the preceding seven years.

Drunk Driving Penalties

Senate Bill 627 would authorize a court to order restricted registration plates or vehicle immobilization for a conviction of causing a death or serious body impairment by drunk driving, and would require one of those sanctions if the offense occurred within seven years of a prior conviction for any drunk driving offense. If the violation occurred within 10 years of any two or more prior drunk driving convictions, the judgment of sentence would have to include seizure and forfeiture of the vehicle. (The Code currently allows seizure and forfeiture for causing a death or serious body impairment.)

The maximum penalty for OWI when the person had two prior convictions for any drunk driving offense within 10 years would be changed to the same penalty that applies to an OUIL violation with two prior convictions within 10 years (i.e., a fine of \$500 to \$5,000 and either one-to-five years' imprisonment or probation with imprisonment for 30 days to one year). Under the bills, "prior conviction" for drunk driving offenses would have the same meaning regardless of whether the offense was for OWI, OUIL, or driving a commercial vehicle while impaired or under the influence. The "prior conviction" definition also would include negligent homicide, manslaughter, or murder committed by use of a vehicle.

The bills would allow the issuance of restricted plates or an order of vehicle immobilization for an OUIL or OWI violation and would require one of those sanctions for a second violation within seven years.

MCL 257.217 et al. (S.B. 625)
257.303 et al. (S.B. 626)
257.5a et al. (S.B. 627)

Legislative Analyst: P. Affholter

FISCAL IMPACT

Senate Bills 625, 626, and 627 would have indeterminate fiscal impacts on State and local government.

There are no data currently available that would indicate how many people might be convicted of the felonies or misdemeanors included in these Senate bills. State and local government could incur costs for incarceration and/or receive additional fee revenue under the proposed legislation.

The provisions would impose substantial increases in administrative costs to the Department of State. To defray its costs, the State would impose a \$125 registration fee for the restricted registration plates. Since there are no data currently available to indicate how many people would qualify for these restricted registration plates, the fiscal impact is indeterminate.

Fiscal Analyst: K. Firestone
E. Limbs

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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.