Senate Bill 807 (as introduced 11-13-97)
Sponsor: Senator William Van Regenmorter
Committee: Judiciary

Date Completed: 2-17-98

CONTENT

The bill would amend the Michigan Vehicle Code to revise the penalties for driving without a license. The bill would create two categories of penalties, depending upon whether a license had been suspended, revoked, or denied for certain offenses (a felony, leaving the scene of an accident, or drunk driving) or for other violations. In general, the bill would retain the existing criminal penalties; for repeat offenses, however, the court would have to order a vehicle to be impounded or immobilized for a minimum period of time or could order the vehicle to be forfeited. The bill also would provide for community service as an alternative to incarceration.

("Mechanically immobilized" would mean the installation of a device that locked the ignition, steering, or wheels of the vehicle.)

Current Penalties

The Code prohibits a person from operating a motor vehicle if his or her driver's license or registration certificate has been suspended or revoked, if his or her license application has been denied, or if he or she has never applied for a license. The Code also prohibits a motor vehicle owner from knowingly allowing it to be operated by a person without a license. A violation of these provisions is a misdemeanor.

A first violation is punishable by imprisonment for up to 90 days, a fine of up to $500, or both. Upon notification by the court, the Secretary of State must cancel the vehicle's registration plates unless the vehicle was stolen or used with the permission of someone who did not knowingly permit an unlicensed person to drive the vehicle. In addition, if the vehicle is owned in whole or in part by the person driving without a license or leased by that person, the court may order the vehicle impounded for up to 120 days from the date of judgment.

A second or subsequent violation is punishable by imprisonment for up to one year, a fine of up to $1,000, or both. Upon notification by the court, the Secretary of State must cancel the vehicle's registration plates unless the vehicle was stolen. If the vehicle is owned in whole or in part or leased by the offender, the court must order the vehicle impounded for up to 120 days from the date of judgment.

The Code provides that the owner of an impounded vehicle is liable for expenses incurred in its removal and storage. A vehicle must be returned to the owner only if he or she pays the expenses. If redemption is not made or the vehicle is not returned within 30 days after the time set in the impoundment order for return, it must be considered an abandoned vehicle and disposed of as provided in the Code.

The bill would delete the current penalty provisions and repeal the section providing for vehicle impoundment (MCL 257.904b).

Proposed Penalties - Felony, Drunk Driving, Etc.

The penalties described below would apply to a person who operated a motor vehicle while his or her license was suspended, revoked, or denied for one of the following violations:

-- A violation designated by law as a felony or punishable by imprisonment for more than one year.
-- Failure to stop at an accident resulting in injury to a person or damage to a vehicle (MCL 257.617a or 257.618).
-- Operation of a motor vehicle while under the influence of intoxicating liquor and/or controlled substances or with an unlawful body alcohol content (MCL 257.625(1)) or operating while visibly impaired by liquor and/or controlled substances (MCL 257.625(3)).

If the person had not been previously convicted of driving without a license under the Code, a substantially corresponding local ordinance, or a substantially corresponding law of another state, he or she would be guilty of a misdemeanor punishable by imprisonment for up to 90 days or community service for up to 120 hours or a maximum fine of $500, or both a fine and either imprisonment or community service. The court could order the motor vehicle impounded or mechanically immobilized for up to 30 days.

If the person had been previously convicted of driving without a license, he or she would be guilty of a misdemeanor punishable by imprisonment for up to one year or community service for at least 120 hours but not more than 250 hours or a maximum fine of $1,000, or both a fine and either imprisonment or community service. The court would have to order the vehicle impounded or mechanically immobilized for at least 30 days but not more than 60 days, or could order the vehicle forfeited in the same manner and subject to the same limitations that property is forfeited under the Revised Judicature Act.

Proposed Penalties - Other Violations

The following penalties would apply to a violation other than one described above.

If the person had not been previously convicted of driving without a license, or had one prior conviction for this offense, under the Code, a substantially corresponding local ordinance, or a substantially corresponding law of another state, he or she would be guilty of a misdemeanor punishable by imprisonment for up to 90 days or community service for up to 120 hours or a maximum fine of $500, or both a fine and either imprisonment or community service. If the individual operated a motor vehicle without a license, the court would have to order the vehicle impounded or mechanically immobilized for up to 30 days.

If the person had two or more prior convictions, he or she would be guilty of a misdemeanor punishable by imprisonment for up to one year or community service for at least 120 hours but not more than 250 hours or a maximum fine of $1,000, or both a fine and either imprisonment or community service. If the individual operated a motor vehicle without a license, the court would have to order the vehicle impounded or mechanically immobilized for at least 30 but not more than 60 days, or could order the vehicle forfeited in the same manner and subject to the same limitations that property is forfeited under the Revised Judicature Act.

Costs & Period of Impoundment

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Under the bill, the court could order the individual convicted of driving without a license to pay the costs of impoundment or immobilization. If a violator were incarcerated, the period of impoundment or immobilization would have to begin at the end of the period of incarceration.

MCL 257.904   Legislative Analyst: S. Lowe

FISCAL IMPACT

Senate Bill 807 would have an indeterminate fiscal impact on State and local government.

To the extent that the proposed legislation would maintain existing criminal penalties, the bill would have little impact on prison or jail commitment rates. However, the bill would add community service to the list of penalties either as a single punishment or in conjunction with other penalties already imposed.

In general, community service costs are less than jail costs. For example, community service programs range from program activities such as unpaid work at a public library to work crew programs, and the costs for these programs range from $0.50 to $3.50 and $3.09 to $6.93, respectively. Jail costs range from $27 a day per offender to $70 a day per offender, depending on the size of the county and the efficiency of jail design. Thus, if community service replaced jail time, the costs to counties for people sentenced under this section could be reduced. However, if community service were added to the sentence, costs could increase.

There could be some additional administrative costs imposed on the Department of State. Since there are no data available for how many additional people would be assessed penalties, the fiscal impact is indeterminate.

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