

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 Bill 953 (as introduced 2-26-98)  
Sponsor: Senator William Van Regenmorter  
Committee: Judiciary

Date Completed: 3-2-98

### **CONTENT**

The bill would amend drunk driving provisions of the Michigan Vehicle Code to do the following:

- Include commercial vehicle drunk driving and negligent homicide, manslaughter, or murder resulting from the operation of a vehicle, in provisions that require license denial for repeat offenses within seven or 10 years.
- Require an arresting officer to confiscate a vehicle's registration plate and issue a temporary plate, if a person had a previous drunk driving conviction within seven years.
- Delete provisions that prescribe periods of license suspension or revocation, and allow the issuance of a restricted license, for repeat drunk driving convictions.
- Allow a court to order, as a condition of a restricted license, that a vehicle be equipped with a device that made it inoperable based upon a person's bodily alcohol content.

The bill is tie-barred to Senate Bills 625, 626, and 627, which also would amend drunk driving provisions of the Vehicle Code.

#### **License Denial or Revocation**

Under the Code, the Secretary of State may not issue a driver's license to a person who is a habitual violator. A person is considered a habitual violator if he or she has two drunk driving convictions within seven years, or three drunk driving convictions within 10 years. These drunk driving convictions include operating a vehicle while under the influence of alcohol and/or a controlled substance or with an unlawful bodily alcohol content (OUIL), or operating a vehicle while visibly impaired due to the consumption of alcohol and/or a controlled substance (OWI). The bill would include a conviction for the following:

- Operating a commercial motor vehicle while intoxicated.
- Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit one of those crimes.

Currently, upon receiving the appropriate records of conviction, the Secretary of State must revoke a driver's license for various combinations of offenses, including two convictions within seven years, or three within 10 years, for drunk driving or negligent homicide, manslaughter, or murder resulting from the operation of a vehicle. The bill would include a conviction for operating a commercial motor vehicle while intoxicated, or for an attempt to commit negligent homicide, manslaughter, or murder resulting from the operation of a vehicle.

In addition, the bill would prohibit the Secretary of State from issuing a driver's license to a person who had failed to answer a citation or notice to appear in court, or for any matter pending, or failed to comply with an order or judgment of the court, including paying all fines, costs, fees, and assessments, until the person answered the citation or notice to appear, or for any matter pending or failed to comply with a court order or judgment.

### Temporary Registration Plate

Under the Code, a peace officer may arrest a person who was operating a vehicle involved in an accident, or who is found in the driver's seat of a parked vehicle that intrudes on the roadway, if the officer has reasonable cause to believe that the person was operating the vehicle while under the influence or impaired, or if the person is under 21 and has any bodily alcohol content. A peace officer also may arrest a person based upon the results of a preliminary chemical breath analysis.

The bill provides that if a person were arrested under these provisions and had previously been convicted of or received a juvenile disposition for a drunk driving violation or attempted violation within the past seven years (whether under a law of this State, a substantially corresponding local ordinance, or a substantially corresponding law of another state), the arresting officer immediately would have to confiscate the vehicle's registration plate and issue a temporary vehicle registration plate for the vehicle. The officer would have to place the temporary plate on the vehicle as required by the Secretary of State. The officer also would have to notify the Secretary of State through the Law Enforcement Information Network that the registration plate was confiscated and destroyed and that a temporary plate was issued.

The temporary plate would be valid for 90 days if the case were not prosecuted. The prosecuting attorney would have to notify the Secretary of State if a case referred to the prosecutor were not prosecuted. The arresting law enforcement agency would have to notify the Secretary of State if a case were not referred to the prosecuting attorney.

If the case were prosecuted, the temporary plate would be valid until five days after the criminal charges against the person were dismissed, the person pleaded guilty or no contest to or was found guilty of or acquitted of the charges, or the person's vehicle registration was ordered canceled by the court, whichever occurred first.

These provisions would apply to the following violations:

- OUIL, OWI, or operating a commercial motor vehicle while intoxicated.
- OUIL or OWI and causing a death or serious impairment of a body function.
- Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit one of those crimes.

### License Sanctions/Interlock Device

The Code provides that, immediately upon acceptance by the court of a plea of guilty or no contest or upon entry of a guilty verdict for OUIL, OWI, OUIL or OWL causing death or serious impairment of a body function, or driving under age 21 with any bodily alcohol content, the court must consider all prior convictions entered upon the person's driving record, and impose specified license sanctions. The bill would delete this requirement as well as the provisions that require a license suspension and permit the issuance of a restricted license, or that require a license revocation and prohibit the issuance of a restricted license. (Specifically, a person's license must be revoked for an OUIL or OWI offense that resulted in death or serious impairment of a body function. For an OUIL conviction, a suspension of at least six months but not more than two years is required if the person has no prior convictions within seven years, and a restricted license may not be issued for

the first 30 days of the suspension; a six-month to two-year suspension is required if the person has one prior OWI conviction within seven years, and a restricted license may not be issued for the first 60 days of the suspension; and the license must be revoked if the person has one or more prior OUIL convictions within seven years, or two or more OUIL or OWI convictions within 10 years. For an OWI conviction, a suspension of at least 90 days but not more than one year is required if the person has no prior conviction; a six-month to two-year suspension is required, and a restricted license may not be issued during the first 60 days, if the person has one prior OUIL or OWI conviction within seven years; and revocation is required if the person has two or more prior convictions within 10 years. For a person under 21 who is convicted of driving with any bodily alcohol content, a suspension of at least 30 days but not more than 90 days is required if the person has no prior conviction; and a 90-day to one-year suspension is required, and a restricted license may not be issued, if the person has one or more prior convictions for OUIL, OWI, or operating under 21 with any bodily alcohol content.)

The bill also would delete provisions under which the court may not order the Secretary of State to issue a restricted license that would permit a person to operate a commercial motor vehicle that hauls hazardous materials; the court may not order the Secretary of State to issue a restricted license unless the person testifies and the court finds that the person needs vehicular transportation and is unable to take public transportation; and a restricted license must indicate the permitted destinations or permitted purposes of driving, the approved routes, and permitted travel times.

Currently, the court may order that a restricted license include the requirement that the person not operate a motor vehicle unless it is equipped with an ignition interlock device. The bill provides, instead, that if the Secretary of State requested, the court could order that a restricted license include the requirement that the person not operate a motor vehicle unless it was equipped with an ignition interlock device or another device approved by the court that rendered a motor vehicle inoperable based upon a direct or indirect determination of the person's bodily alcohol content, including a determination of the person's ability to operate the motor vehicle as a result of his or her bodily alcohol content.

#### Time Limits

The Code specifies time limits for arraignments, pretrial conferences, and final dispositions in drunk driving cases, but these time limits do not apply to an OUIL offense that occurs within 10 years of two or more prior convictions. Under the bill, the time limits would not apply to an OUIL or OWI offense or a commercial vehicle drunk driving offense that was punishable as a felony.

MCL 257.303 et al.

Legislative Analyst: S. Lowe

#### **FISCAL IMPACT**

Senate Bill 953 would have an indeterminate fiscal impact on State and local government.

To the extent that the proposed legislation would not add or increase the penalty for a felony or misdemeanor, the cost of incarceration and/or the receipt of fine revenue would be unchanged. To the extent that this bill is tie-barred to other legislation that would include additional and increased penalties, the legislation would indirectly increase costs and/or revenues for State and local government.

Further, the Department of State would incur additional administrative costs and technical computer programming costs due to a provision requiring issuance of temporary plates. Currently, there are no data available that indicate how many more people would fall under the purview of the increased penalties of the tie-barred bills or how many would receive temporary plates due to drunk driving

convictions.

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.