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REPEAT OFFENDER REVISIONS

Senate Bill 856 as passed by the Senate First Analysis (12-1-99)

Sponsor: Sen. Mike Goschka
House Committee: Criminal Law and
Corrections
Senate Committee: Judiciary

THE APPARENT PROBLEM:

Michigan's drunk driving and driving without a license laws, which are contained in the Michigan Vehicle Code, have been amended repeatedly in the past decade in an attempt to keep drunk drivers and persons without licenses off the roads. Extensive revisions in 1991, among other things, expanded the application of drunk driving laws, stiffened penalties for repeat offenders, created special penalties for drunk driving that caused death or serious injury, required attempted offenses to be treated as if completed, and required speedy disposition of drunk driving cases. The drunk driving laws were further amended in 1994, and yet again in 1996, to correct a number of problems that came to light after enactment of the 1991 revisions (that took effect in 1992).

In the 1997-98 session of the legislature further changes were enacted. These changes took effect October 1, 1999 and revised the criminal penalties, license sanctions, and vehicle sanctions for drunk driving and driving without a license offenses in a further attempt to deter repeat offenders. As the 1998 changes have now taken effect, a number of errors and potential problems have been discovered. For example, one of the objectives of the repeat offender package was to prevent repeat offenders from being able to obtain title to vehicle after June 1, 2000. Unfortunately, the current language of law would, by prohibiting the transfer of title to a repeat offender, leave the title in the name of the seller. Thus after the seller thought that he or she had sold the vehicle it would remain in his or her name, even though the repeat offender would now have possession of the vehicle. Legislation has been introduced to correct this error and clarify other provisions.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Vehicle Code to make various revisions pertaining to repeat violations of drunk driving or driving without a valid license.

The bill would prohibit a person from buying, leasing, or otherwise acquiring a motor vehicle during a period of suspension, revocation, or denial if the person's driver's license were suspended, revoked, or denied for a third or subsequent drunk driving violation or a fourth or subsequent offense of driving while a license was suspended, revoked, or denied. A violation of this prohibition would be a misdemeanor punishable by up to 93 days' imprisonment, a maximum fine of \$100, or both. This provision would take effect on June 1, 2000.

The code provides for vehicle immobilization for certain drunk driving offenses and violations of driving while a license is suspended, revoked, or denied. The bill specifies that immobilization would not apply to a vehicle owned by the federal government, the state, or a local unit of government, or to a vehicle not subject to registration under the code.

The bill would delete a provision requiring the secretary of state to refuse to issue a certificate of title or a salvage certificate of title if the driver's license of the owner or co-owner or lessee or co-lessee is suspended, revoked, or denied or the operator has never been licensed in Michigan because of a third or subsequent drunk driving offense or a fourth or subsequent offense of driving while a license is suspended, revoked, or denied. Another provision of the code requires the secretary of state to refuse to issue a registration or a transfer of registration to such a person. The bill would require that a certificate of title include on its face whether the vehicle's owner or co-owner or lessee or co-lessee was subject to that registration denial.

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The bill is tie-barred to Senate Bills 831 through 834 and 855.

MCL 257.219 et al.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have an indeterminate fiscal impact on state and local government. The bill would establish misdemeanor penalties for an individual who acquired a vehicle while his or her license was suspended. Local units of government would receive the fine revenue and/or pay the cost of incarceration. There are no data to indicate how many people could be subject to conviction under these sections, and the cost of incarceration varies from county to county. Because the number of individuals who could fall under the purview of these provisions is unknown, the fiscal impact on the Department of State is indeterminate. (11-23-99)

ARGUMENTS:

For:

According to the Department of State, the changes in the bills are essentially technical in nature and intended to correct errors and inconsistencies contained in the laws as enacted last session. The intent of the original legislation was not to place the unknowing seller of a vehicle in the position of being liable for a repeat offender who purchased the vehicle. The bill will correct this error and clarify other provisions.

Against:

The bill is tie-barred to a package of bills – Senate Bills 831-834 – that may not all be enacted. The House has already passed a comparable package of bills – House Bills 5008-5010 and 5016 – and thus it is likely that some or all of the Senate bills may be replaced by House bills. Thus the tie-bar provision should either be revised or stricken.

POSITIONS:

The Department of State supports the bill. (11-30-99)

The Prosecuting Attorneys Association of Michigan supports the bill. (11-30-99)

Analyst: W. Flory

■ 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.