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REGULATIONS FOR DRIVING NEAR EMERGENCY VEHICLES

House Bill 5549 (Substitute H-2) First Analysis (5-11-00)

Sponsor: Rep. Valde Garcia
Committee: Transportation

THE APPARENT PROBLEM:

When police officers, firefighters and other emergency personnel stop motorists either to ticket them for violations or to give aid following an accident, their lives are in danger due to the drivers of cars and trucks who speed by in close proximity. For example, on January 25, 2000, an accident claimed the life of an on-duty police officer in Clinton county who was struck by a semi-truck and killed during a routine traffic stop on a snowy highway. In this tragic incident, an 18-year veteran of the DeWitt Township police force who was acting in much the same way as emergency workers throughout the state are accustomed to working every day, lost his life because traffic did not slow, and a driver did not see the hazard on the side of the highway in time to signal and move to another lane farther from the officer's vehicle and the vehicle he had stopped to ticket. According to committee testimony, three additional traffic stop deaths of police officers have occurred during the past year. See *BACKGROUND INFORMATION*, below.

There are four kinds of crimes which can be charged by law enforcement officials when drivers proceed without adequate caution and cause an accident on the roadside. The driver can be charged with simple negligence (and ticketed for careless driving), willful and wanton negligence (and ticketed for reckless driving), or if a death has occurred, the prosecutor can charge the driver with either negligent homicide or gross negligence in the commission of a homicide. The standard of proof for gross negligence in the commission of a homicide is very high, and according to committee testimony, prosecutors seldom have the necessary evidence to successfully bring a case proving the more serious charge. Consequently, negligent homicide is customarily charged when a death occurs, and the penalty imposed cannot exceed two years of imprisonment. However, the sentence often calls for a much shorter term of imprisonment. For example, in the case of the DeWitt Township police officer, the driver was charged with negligent homicide and sentenced to 90 days in jail for striking the officer with her rig.

Preventing these kinds of tragedies begins with public education. New drivers and veteran motorists must be reminded to slow down and to move to safer lanes where traffic is not impeded by the stopped vehicles, whether those belonging to the accident victims or the vehicles at the scene to give assistance or promote safety. Some states, Ohio and Indiana among them, also have enacted legislation to penalize motorists who do not steer clear of the emergency personnel working at accident scenes, or police personnel who have stopped vehicles to issue tickets. Legislation has been proposed to do the same in Michigan, in order to make the streets and highways safer for law enforcement personnel.

THE CONTENT OF THE BILL:

House Bill 5549 would amend the Michigan Vehicle Code to set penalties for drivers who drive unsafely near emergency vehicles.

The bill specifies that upon approaching and passing a stationary emergency vehicle whose lights are flashing, a driver would be required to exhibit due care and caution, and if he or she is on any public roadway with at least two adjacent lanes that proceed in the same direction as the emergency vehicle, proceed with caution and yield the right-of-way by moving into a lane at least one moving lane or two vehicle widths away (unless directed otherwise by a police officer). If the driver could not move to an adjacent lane or two vehicle widths away because of weather or road conditions, or vehicle or pedestrian traffic, then the driver would be required to reduce and maintain a safe speed for the conditions, and proceed with due care and caution, as directed by a police officer.

House Bill 5549 further specifies that a person who violated this provision would be guilty of a misdemeanor. If a violation caused injury to a police officer, firefighter, or other emergency response personnel in the area of the emergency vehicle, it

would be a felony punishable by a fine of not more than \$1,000 or imprisonment for not more than two years, or both. Violating the bill and causing death to a police officer, fire-fighter, or other emergency response personnel would be a felony punishable by a fine of not more than \$7,500, or by imprisonment for not more than 15 years, or both. A violation that caused death to a police officer, and was caused by a driver who was at the time under the influence of or impaired by intoxicating liquor or a controlled substance, would be punishable by imprisonment for life or any term of years.

MCL 257.653a

BACKGROUND INFORMATION:

Although statistics on all law enforcement officers who have been killed in traffic stops are not available, the Department of State Police reports that since record-keeping began in 1921 to record the incidence of death among state troopers during routine traffic stops, eight troopers have lost their lives. Two troopers were shot and killed, and six were struck by the drivers of vehicles who did not reduce their speed and pull over to avoid the state trooper who was ticketing an errant driver.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, to the extent that fine revenue collections increased due to convictions under this bill, fine revenue earmarked for local libraries would increase. To the extent that individuals were sentenced to prison terms or prison terms were extended due to convictions under the bill, state and local correctional costs would increase. (5-10-00)

ARGUMENTS:

For:

Motorists must slow down when they encounter police officers or emergency assistance personnel who have stopped their vehicles at the side of the road at the sites of accidents or routine traffic stops. Although driving

defensively and safely would seem to be common sense, senseless deaths continue to occur when motorists fail to avoid hazards at the side of the highway. When drivers with these bad driving habits take a law enforcement officer's life, or kill a firefighter or other emergency services worker at an accident scene, the negligent driver should be punished by a stiff fine and long prison sentence. Because the standard of proof for gross negligence in committing a homicide is high, punishments for such deaths are more customarily meted out based on charges for less serious crimes. This legislation would increase the penalties for negligent drivers who cause the deaths of those whose job it is to make highways safer.

Response:

The bill could go further; it should be amended to penalize drivers who take the lives of all public employees who work on the roadside in similar unsafe conditions. According to committee testimony, those who work for county road commissions along high-traffic roadways also have lost their lives to grossly negligent drivers.

POSITIONS:

The DeWitt Township Police Department supports the bill. (5-10-00)

The City of DeWitt Police Department supports the bill. (5-10-00)

The Michigan Sheriff's Association supports the bill. (5-10-00)

The Department of State Police supports the bill. (5-10-00)

The Michigan Association of Chiefs of Police supports the bill. (5-9-00)

Analyst: J. Hunault

#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.