

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



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

House Bill 4779 (Substitute S-2 as reported)  
Sponsor: Representative Paul DeWeese  
House Committee: Criminal Law and Corrections  
Senate Committee: Judiciary

### **CONTENT**

The bill would amend the Code of Criminal Procedure to add all of the following to the sentencing guidelines: corrupting a road test examining officer; deviating from road test criteria; forging, counterfeiting, or altering a road test certification; corrupting a person or agency conducting a motorcycle driving test; deviating from motorcycle road test criteria; and forging, counterfeiting, or altering a motorcycle road test certification. Each of those offenses would be categorized as a Class F felony against the public order, with a statutory maximum sentence of five years' imprisonment.

The bill also would change the felony classification for a third or subsequent offense of operating or serving as crew of an aircraft while under the influence of alcohol or a controlled substance. Currently, that offense is a Class G felony; under the bill, it would be a Class E felony. In addition, the bill would categorize as a Class E felony operating or serving as crew of an aircraft while under the influence causing serious impairment.

The bill would include in the guidelines violations of the Organic Products Act (Public Act 316 of 2000, which will take effect on October 1, 2001). A violation of that Act would be categorized as a Class G felony with a statutory maximum sentence of four years' imprisonment.

The bill is tie-barred to House Bill 4478, which would add the driving test corruption, deviation, and forging, counterfeiting, or altering violations to the Michigan Vehicle Code.

MCL 777.12

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government.

There are no data available to indicate how many offenders could be convicted of the proposed offenses pertaining to road tests and motorcycle driving tests. These offenses would be incorporated in the sentencing guidelines as Class F felonies with a minimum sentence range from 0-3 months to 17-30 months. Assuming that two offenders a year would be convicted of some of these offenses and serve a sentence at the high-end of the sentencing guidelines minimum range, given an average annual cost of incarceration of \$22,000 per year, costs to the State could increase \$110,000. Local units of government would receive fine revenues or incur the cost of incarceration for offenders receiving sentences at the lower end of the range.

Also, according to the 1998 Department of Corrections Annual Statistical Report, there were no offenders convicted of a third or subsequent offense of operating or serving as crew of an aircraft while under the influence nor are there any offenders serving a prison term for which this offense is the controlling sentence. (The Department of Corrections assigns each sentence a number when an offender has multiple convictions and tracks the offender by the primary or controlling sentence.) Given that the bill would change the crime from a Class G felony with a sentencing guidelines minimum range from 0-3 months to 7-23 months, to a

Class E felony with a sentencing guidelines minimum range from 0-3 months to 24-38 months, the average minimum sentence for the offense could increase, and increase costs of incarceration for State or local government. To the extent that no offenders were convicted of this offense in 1998, the added penalties would not increase length of stay for offenders or cost of incarceration.

Additionally, there are no data to indicate how many offenders may be convicted of operating or serving as crew of an aircraft while under the influence causing serious impairment, which would be a Class E felony with a sentencing guidelines minimum range from 0-3 months to 24-38 months. Assuming that two offenders a year would be convicted of this offense and serve a sentence at the high end of the guideline range, costs to the State could increase \$140,000. Local units of government would receive fine revenue or incur the cost of incarceration for offenders receiving sentences at the lower end of the range.

Date Completed: 12-4-00

Fiscal Analyst: K. Firestone