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INCREASE VARIOUS CRIMINAL FINES

**House Bill 5814 with committee
amendments**

Sponsor: Rep. Thomas George

**House Bill 5858 with committee
amendments**

Sponsor: Rep. Jennifer Faunce

**House Bill 6079 with committee
amendments**

Sponsor: Rep. James Koetje

First Analysis (5-22-02)

Committee: Criminal Justice

THE APPARENT PROBLEM:

Maximum penalties for criminal violations are specified in statute. Typically, the maximum term of imprisonment and the maximum fine for a violation are indicated in the same provision that proscribes a particular criminal activity. With some crimes, however, the violation merely is designated as either a misdemeanor or felony, with no specified penalty. The Michigan Penal Code provides that the maximum penalty for a felony when no other penalty is indicated is up to four years' imprisonment and/or a fine of up to \$2,000. This penalty has not been revised since the 1931 enactment of the penal code. Some people feel that the fine amount should be increased.

Similarly, some feel that the maximum fines in statute for various misdemeanor offenses are also too low. Many of these fine amounts have not been adjusted for inflation or increased since their enactment decades ago. Further, at a minimum of \$100 for a first offense, Michigan has one of the lowest minimum fines on the books for a drunk-driving related misdemeanor offense. The national average is a fine of \$300 for a first offense that is a misdemeanor. In light of the seriousness of drunk driving offenses, some would like to see the minimum fines for drunk driving or driving under the influence of controlled substances increased, also. Legislation has been offered to address these issues.

THE CONTENT OF THE BILLS:

House Bill 5814 would amend the Michigan Vehicle Code (MCL 257.625) to increase the mandatory minimum fines for several drunk-driving offenses.

Currently the law prohibits a person from operating a vehicle if he or she is under the influence of intoxicating liquor, a controlled substance, or a combination of the two; or, if a person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine. In addition to other penalties such as a term of imprisonment and/or community service, the person may be fined by the court. The bill would increase the minimum fine for a first offense from \$100 to \$300, increase the minimum fine for a second offense occurring within seven years from \$200 to \$500, and increase the minimum fine for a third or subsequent offense occurring within ten years from \$500 to \$800. The maximum fine for these offenses would remain the same at \$500, \$1,000, and \$5,000, respectively.

The Michigan Vehicle Code also provides enhanced penalties for certain driving offenses if a person less than 16 years of age was in the vehicle. The bill would increase the minimum fines for these offenses as well. The minimum fines for driving under the influence of intoxicating liquor, a controlled substance, or a combination of the two; driving while visibly impaired; causing the death of another person when driving under the influence or visibly impaired; and causing serious impairment of a body function when driving under the influence or visibly impaired

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with a person under 16 years of age in the vehicle at the time would increase from \$200 to \$400 for a first offense and from \$500 to \$600 for a second offense occurring within seven years or a third or subsequent offense occurring within ten years. The maximum amount of a fine for each of these offenses would remain the same.

House Bill 5858. When a criminal violation is specified in statute only as a felony, but no maximum penalty is specified, the Michigan Penal Code provides that the maximum penalty for a felony is up to four years' imprisonment and/or a fine of up to \$2,000.

The bill would amend the penal code (MCL 750.503) to increase the maximum fine in the penalty that applies to a felony for which no other punishment is prescribed. For a felony, the bill would raise the maximum fine from \$2,000 to \$5,000. The bill would take effect January 1, 2003.

(Note: The bill is a companion bill to Senate Bill 1028, which would raise the maximum fine for an unspecified misdemeanor from \$100 to \$500.)

House Bill 6079. Some misdemeanor convictions carry the possibility of a fine, imprisonment, or both. Often a statute specifies a maximum amount that a court could impose for a particular offense. The bill would amend the Michigan Penal Code (MCL 750.16 et. al.) to raise the maximum amount of a fine that could be imposed by a court for a conviction of various misdemeanor offenses, as follows:

- From a maximum fine of \$100 to \$500. Improper burial of a dead animal; act against a pregnant woman resulting in physical injury to the embryo or fetus; requiring employees to insure with a particular insurance company; serving nonapproved notice on debtor; advertising, printing, or publishing lottery tickets; false report of a commission of a crime; first offense of unauthorized use of vehicle but without intent to steal; purchase by employee upon public credit for own use; and knowingly publishing a telecommunication access device with intent it be used.
- From a maximum fine of \$100 to \$1,000. Unmarried woman concealing the death of an issue of her body; and offering for sale or using a false weight or measure in the buying and selling of any commodity or thing or for hire or reward.
- From a maximum fine of \$250 to \$750. Failure to register a docked horse; taking money from vending

machines, coin changers, etc.; breaking into outside showcase; bribing a law enforcement officer; entering into contract for market price-fixing or restricting amount of production of product; using reproachful language in print for not accepting or fighting a duel; physician fee-splitting; physicians employing "drummers" to solicit patients; knowingly leasing house for prostitution, etc.; and basing discipline or discharge of railroad employee on report of railroad detective without giving notice to employee and providing hearing; neglecting or refusing to suppress riotous or unlawful assembly.

- From a maximum of \$300 to \$750. Sale of kerosene with flashpoint of less than 100 degrees Fahrenheit.

- From a maximum fine of \$500 to \$750. Solicitation of personal injury claims; selling or buying identity of patient; and malicious use of service provided by communications common carrier.

- From a maximum fine of \$500 to \$1,000. Fraudulently adulterating any drug or medicine; possessing with intent to sell or selling adulterated cream or butter; deceptive/false advertising; advertising cure or products to treat or cure sexual diseases, loss of manhood, or to produce miscarriage; trick or acrobatic flying that endangers life or property on the ground; flying below 1,500 feet; intentionally causing physical harm to a police dog or police horse; docking a horse's tail when not medically necessary; taking or giving bribes for business purposes; interfering with child custody order; using child under 16 years of age for wire walking, contortionist, gymnast, or obscene purpose, etc. if possibly injurious to the child; accepting bribe to conceal the commission of a felony offense; dueling; smuggling object to prisoner to aid in escape; aiding prisoner to escape; refusal to serve process or apprehend person resulting in escape of person; aiding in escape of prisoner being transported through state; escaping from lawful custody; falsely acting as law enforcement officer, conservation officer, constable, or coroner; wearing disguise to obstruct or hinder due execution of law; impersonating public officer or public employee and further operation of legal process so as to affect persons or property; knowingly making false statement about property valuation for purpose of obtaining credit; raising false alarm of fire in public place; counterfeiting an identifying mark or using, possessing, or delivering a counterfeit mark; possessing a counterfeit mark with intent to use or deliver; marking merchandise as "silver", etc., unless

925/1000 of parts of article are pure silver; making or selling article falsely marked as coin or coin silver; obtaining or attempting to falsely register animals as pure-breds; making fraudulent records of milk and butter fat production of cows; practicing medicine under a false or assumed name; accepting money contingent on outcome of contest; keeping gambling house; keeping, operating, etc., room with devices for registering bets or buying or selling betting pools; advertising the making or laying of bets; possession of pool tickets, pool books, etc.; winning not more than \$50 by betting; selling or publishing reports of betting odds on certain horse races; participating in any capacity in horse races not authorized by law; lewd and lascivious behavior; indecent exposure; larceny from vacant buildings; second or subsequent offense of libel and slander; false or misleading statements regarding insurance companies; removing or destroying buoy; desertion from military service; resisting and inciting resistance to military draft; concealing or harboring deserters; unneeded request for ambulance; physician prescribing drug, poison, or medicine while intoxicated; knowingly selling diseased, corrupted, or unwholesome meat or drink; willful neglect of duty by public officer or employee; officer collecting money in excess of fine due, etc, and not paying over same amount; refusal by public officer to furnish or copy public documents; equipping vehicle to receive signals assigned for police purposes; making false report to police broadcasting station; copper or silver mine employee or other person selling, etc., any raw or unmanufactured metals.

- From a maximum fine of \$1,000 to \$1,500. Intentionally causing physical harm to a police dog or horse during commission of a crime; second or subsequent offense of impersonating public officer or public employee and further operation of legal process so as to affect persons or property; making false statements in writing to a bank, firm, or corporation engaged in banking, etc. regarding his or her own financial condition or the condition of a bank, firm, etc. he or she is connected with; and using automobile without authority but without intent to steal.

- The bill would take effect January 1, 2003.

• FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bills could increase collections of penal fine revenues, which are constitutionally dedicated to local libraries. The extent of the fiscal impact would depend on the number of offenders who otherwise would have

received the current, lower fines but instead would receive the increased fines. (5-17-02)

ARGUMENTS:

For:

The bills would merely increase either the minimum fine allowed to be imposed by a court for a variety of offenses or raise the maximum allowable fine limit. Many of these statutes were enacted decades ago and have not been revised since. If adjusted to compensate for inflation, many of these fine amounts would appear ridiculously low. To continue to be an effective punishment and deterrent, the fine amounts need to be increased. Further, since penal fine revenue is mandated by the state constitution to fund libraries, the state and county libraries could benefit greatly from the additional funding.

Against:

House Bill 5814 would raise the minimum fine for several drunk-driving related offenses. People convicted for one of these offenses already face stiff penalties that include fines, imprisonment, rehab or treatment programs, mandatory urine or breathalyzer tests, loss of driving privileges, community service, victim restitution, and can also be ordered to reimburse the state or a local government for costs associated with responding to the incident and prosecution costs. Just driving into a construction barrel can cost a person thousands of dollars. This is not needed.

Response:

Any accident or incident that involves operating a vehicle under the influence of alcohol or a controlled substance is indeed serious. Every day people are killed and seriously injured by the irresponsibility of drunk or impaired drivers. The fine increases contained in the bill would reflect the national average for how other states fine these offenders and are not seen as being overly harsh or punitive in nature.

POSITIONS:

The Department of State Police is neutral on the bills. (5-21-02)

Analyst: S. Stutzky

■ 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.