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Senate Bill 196 (Substitute S-2 as reported)  
Sponsor: Senator William Van Regenmorter  
Committee: Judiciary

## **CONTENT**

The bill would amend the Michigan Vehicle Code to provide that, in a prosecution for a drunk driving offense, either party could introduce the results of a preliminary chemical breath analysis in order to rebut testimony or argument that the defendant's breath alcohol content was different at the time of the offense than when a chemical test (other than the preliminary breath test) was administered.

Currently, the results of a preliminary chemical breath analysis (performed when a peace officer suspects drunk driving) may be admitted in a prosecution or administrative hearing only for one or both of the following purposes:

- As evidence of the defendant's breath alcohol content, if offered by the defendant to rebut testimony elicited on cross-examination of a defense witness that the defendant's breath alcohol content was higher at the time of the charged offense than when a chemical test was administered.
- As evidence of the defendant's breath alcohol content, if offered by the prosecution to rebut testimony elicited on cross-examination of a prosecution witness that the defendant's breath alcohol content was lower at the time of the charged offense than when a chemical test was administered.

The bill provides, instead, that the results of a preliminary chemical breath analysis would be admissible as evidence of the defendant's breath alcohol content if offered by either party to rebut testimony or argument that the defendant's breath alcohol content was different at the time of the charged offense than when a chemical test was administered. (As currently provided, the results also could be introduced to assist the court or hearing officer in determining a challenge to the validity of an arrest.)

MCL 257.625a

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 whether convictions for drunk driving would increase if the results of a preliminary chemical breath analysis were admissible to rebut testimony elicited on direct examination. For felony drunk driving, the State government incurs the costs of incarceration for minimum sentences greater than 18 months, probation costs, and jail stays qualifying for reimbursement through the County Jail Reimbursement Program, while lesser drunk driving crimes are misdemeanor offenses or ordinance violations for which local government incurs the cost of incarceration or receives the fine revenue.

The bill would have no fiscal impact on the Department of State, except to the extent that the bill could affect the number of license revocations.

Date Completed: 2-21-01

Fiscal Analyst: K. Firestone/J. Runnels

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Analysis available @ <http://www.michiganlegislature.org>

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.