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**SFA**

BILL ANALYSIS

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Senate Bills 373 and 374 (as introduced 3-29-01)

Sponsor: Senator Bill Bullard, Jr.

Committee: Transportation and Tourism

Date Completed: 4-17-01

## CONTENT

**Senate Bill 373 would amend the Michigan Vehicle Code to do the following:**

- Prescribe felony penalties for causing an injury to or the death of a construction worker in a construction zone area.
- Provide for an enhanced penalty if a violator were drunk and killed a construction worker.
- Include conviction of the felony among violations that are grounds for license denial, revocation, or suspension.
- Establish points for violations.

**Senate Bill 374 would amend the Code of Criminal Procedure to include failure to use due care and causing injury or death to a construction worker in the sentencing guidelines classifications.**

Senate Bill 374 is tie-barred to Senate Bill 373. A more detailed description of the bills follows.

### Senate Bill 373

#### Injury or Death to Construction Worker

Currently under the Vehicle Code, a person responsible for a moving violation in a construction zone, at an emergency scene, or in a school zone from 30 minutes before school in the morning and through 30 minutes after school in the afternoon, is subject to a fine that is double the fine otherwise prescribed for that moving violation. Under the bill, notwithstanding any other provision of the Code, a person who committed a moving violation that caused injury to a construction worker in the construction zone area would be guilty of a felony punishable by a maximum fine of \$1,000 and/or imprisonment for up to two years. A person who committed a moving violation that caused death to a construction worker in the construction zone area would be guilty of a felony punishable by a maximum fine of \$7,500 and/or imprisonment for up to 15 years.

The Code also requires that, whenever practical, signs designed in compliance with the Uniform Manual of Traffic Control Devices be placed appropriately at a construction zone by the Michigan Department of Transportation (MDOT) or road authority having jurisdiction over the construction zone notifying vehicle operators that for the protection and safety of construction workers, the fine for a moving violation in the work area is double the fine otherwise prescribed for that moving violation. The bill would delete reference to doubled fines, and would require, instead, that the signs notify vehicle operators of the increased fines and penalties.

#### Death due to Drunk Driving

The Code prohibits a person from operating a vehicle on a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking, if the person is under the influence of intoxicating liquor and/or a controlled substance, or has an unlawful bodily alcohol content (OUIL). In addition, a person is prohibited from operating a vehicle when, due to the consumption of intoxicating liquor and/or a controlled substance, the person's ability to operate the vehicle is visibly impaired (OWI). A person who operates a motor vehicle in violation of either of these prohibitions and

causes the death of another person is guilty of a felony punishable by imprisonment for up to 15 years and/or a fine of at least \$2,500 but not more than \$10,000. If the person caused the death of a police officer, firefighter, or other emergency response personnel, the person is guilty of a felony punishable by imprisonment for up to 20 years and/or a fine of at least \$2,500 but not more than \$10,000. Under the bill, this penalty also would apply to a person who was operating a vehicle in a manner that caused the death of a construction worker in the construction zone area.

#### License Denial or Revocation

The Code prohibits the Secretary of State from issuing a license to a person, under certain circumstances, including when a person has been convicted of or received a juvenile disposition for OUIL causing the death of or serious impairment of a body function of another person, or operating a vehicle in a manner that injured or killed emergency response personnel; or, when a person has been charged with unlawful operation of a vehicle after a license has been revoked, suspended, or denied. The bill would add that a license could not be issued when a person was guilty of a felony for causing the death of a construction worker in the construction zone area.

In addition, the Code requires the Secretary of State, upon receiving the appropriate conviction records, to revoke the operator's or chauffeur's license of a person who has any of certain convictions or combination of convictions. The bill would add to these convictions a moving violation that caused death to a construction worker in the construction zone area. The Secretary of State also is required to suspend a person's license for 90 days for certain crimes. The bill would add to these crimes a moving violation that caused injury to a construction worker in the construction zone area.

The bill would add to the definition of "prior conviction", for purposes of these sanctions, a moving violation that caused the death of a construction worker in the construction zone area.

In addition, the Secretary of State may not issue a license to a person who is a habitual violator of the criminal laws relating to OUIL or OWI, or who is a habitually reckless driver, based on certain convictions under the Code. Convictions for certain violations are prima facie evidence that a person is a habitual violator or a habitually reckless driver. The bill would add to these convictions a moving violation that caused death to a construction worker in the construction zone area.

#### Points

The Secretary of State, within 10 days after receiving a properly prepared abstract from this or another state, must record the date of conviction, civil infraction determination, or probate court disposition, and the number of points for each. Under the bill, a moving violation that caused death to a construction worker in a construction zone would require six points.

### **Senate Bill 374**

The bill would include failure to use due care and caution causing injury or death to a construction worker, as proposed in Senate Bill 373, in the sentencing guidelines classifications, as shown in Table 1.

Table 1

Offense	Category	Class	Stat. Max.
Failure to use due care and caution causing injury to a construction worker	Person	G	2 years
Failure to use due care and caution causing death to a construction worker	Person	C	15 years

The bill also would delete from the existing sentencing guidelines classifications falsely obtaining money -- agricultural land.

MCL 257.303 et al. (S.B. 373)  
777.12 (S.B. 374)

Legislative Analyst: L. Arasim

### **FISCAL IMPACT**

Senate Bills 373 and 374 would have an indeterminate fiscal impact on State and local government.

There are no data available to indicate how many offenders a year would be convicted of failure to use due care and caution causing injury to a construction worker or of failure to use due care and caution causing death to a construction worker. These offenses would be incorporated into the sentencing guidelines as a Class G and a Class C felony, respectively. A Class G felony has a sentencing guideline minimum range from 0-3 months to 7-23 months and a Class C felony has a sentencing guideline minimum range from 0-11 months to 62-114 months.

In most cases, offenders convicted of the Class G felony would be subject to probation or incarceration in a local facility, because causing injury to a construction worker would have a maximum penalty of two years. The State would incur the cost of felony probation, estimated at \$4.23 per day, while local units would incur the cost of incarceration, which may vary between \$27 and \$62 per day.

Assuming that five offenders a year would be convicted of causing death to a construction worker and receive the longest minimum sentence, given that the annual average cost of incarceration is \$22,000, the cost to the State would be \$1.0 million.

Fiscal Analyst: K. Firestone

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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.