

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



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

Senate Bills 469 and 470 (as introduced 5-10-01)
Sponsor: Senator Loren Bennett
Committee: Judiciary

Date Completed: 5-23-01

CONTENT

Senate Bill 469 would amend the Michigan Vehicle Code to do the following in regard to the offense of failure to stop at the scene of an accident resulting in serious injury or death:

- **Revise the penalty for an accident resulting in injury and increase the penalty for an accident resulting in death.**
- **Require the revocation, rather than suspension, of a violator's driver license.**
- **Require vehicle immobilization for the offense.**
- **Include the offense among those that, when repeated or committed in combination within seven or 10 years, constitute grounds for license denial or revocation.**

The bill also would remove the January 1, 2002, sunset on a \$1 license application service fee; and would delete references to juvenile dispositions and prima facie evidence in license denial requirements.

Senate Bill 470 would amend the sentencing guidelines provisions in the Code of Criminal Procedure to reflect the proposed penalty for failure to stop at the scene of an accident resulting in death. The bill is tie-barred to Senate Bill 469.

Senate Bill 469

Failure to Stop

Criminal Penalty. Under the Vehicle Code, a driver who knows or has reason to believe that he or she has been involved in an accident resulting in serious or aggravated injury to or death of a person, must immediately stop at the scene of the accident and remain there until the requirements of Section 619 are fulfilled. (Section 619 requires the driver to give his or her name and address and the vehicle's registration number, and show his or her driver license, to a police officer, the person struck, or the driver or occupants of a vehicle that was hit, and to assist an injured person in securing medical aid or transportation.) A person who violates this requirement is guilty of a felony punishable by imprisonment for up to five years, a maximum fine of \$5,000, or both.

Under the bill, the requirement to stop would apply if the accident resulted in serious impairment of a body function (rather than serious or aggravated injury) or death. The penalty would be imprisonment for up to five years, a fine of at least \$1,000 but not more than \$5,000, or both, if the accident resulted in serious impairment of a body function. If the accident resulted in death, the offense would be punishable by imprisonment for up to 15 years, a fine of at least \$2,500 but not more than \$10,000, or both.

"Serious impairment of a body function" would include one or more of the following:

- Loss of, or loss of the use of, a limb, foot, hand, finger, thumb, eye, or ear.
- Loss or substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state lasting for more than three days.
- Measurable brain or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or subdural hematoma.

License Revocation. Currently, if a driver fails to stop at the scene of an accident resulting in serious injury or death, the Secretary of State must suspend the person's operator's or chauffeur's license for one year. The bill, instead, would require the Secretary of State to revoke the person's license upon one conviction for a failure-to-stop violation or attempted violation.

The Code also requires the Secretary of State to revoke the license of a person who, within seven years, has two convictions of any of the following, or one conviction of the zero tolerance law (which prohibits the operation of a vehicle by a person under 21 with any bodily alcohol content) plus one conviction of any of the following: operating under the influence (OUIL), operating while impaired (OWI), OUIL or OWI causing serious impairment or death, OUIL or OWI with a passenger under 16, driving without a license and causing death or serious impairment, or unlawfully passing a stationary emergency vehicle and causing the death of a police officer, fire fighter, or other emergency personnel; operating a commercial vehicle with an unlawful bodily alcohol content; or negligent homicide, manslaughter, or murder resulting from the operation of a vehicle. Revocation also is required if, within 10 years, a person has three convictions of any of those offenses, or one zero tolerance conviction plus two convictions for any of the other offenses.

The bill would include failure-to-stop convictions among the convictions that result in revocation under these provisions.

(Under the Code, if a person's license has been revoked, the Secretary of State may not issue a license to the person until the later of the following: the expiration of at least one year after the revocation, or the expiration of at least five years after the date of a subsequent revocation occurring within seven years after any prior revocation.)

Vehicle Immobilization. Under the bill, if a person were convicted of failure to stop at the scene of an accident resulting in serious impairment of a body function or death, the court would have to order vehicle immobilization in the judgment of sentence, in addition to any other penalty. The period of immobilization would be as currently provided for various OUIL or OWI offenses, as follows:

- Up to 180 days for a conviction with no prior convictions (which currently applies to a conviction for OUIL or OWI causing death or serious impairment with no prior convictions).
- At least 90 days but not more than 180 days for a conviction within seven years after a prior conviction (which applies to a conviction for OUIL, OWI, OUIL or OWI causing death or serious impairment, or OUIL or OWI with a passenger under 16, within seven years of a prior conviction).
- At least one year but not more than three years for a conviction within 10 years of two or more prior convictions (which applies to a conviction for OUIL, OWI, OUIL or OWI causing death or serious impairment, or OUIL or OWI with a passenger under 16, within 10 years of two or more prior convictions).

For the purpose of the immobilization provisions, the Code defines "prior conviction" as a conviction of any of the following: any of the OUIL or OWI offenses described above; a zero tolerance violation; operating a commercial vehicle with unlawful bodily alcohol content; negligent homicide, manslaughter, or murder resulting from the operation of a vehicle; or unlawfully passing a stationary emergency vehicle and injuring a police officer, fire fighter, or other emergency personnel. The bill also would include a conviction for failure to stop at the scene of an accident resulting in death or serious impairment, as well as passing an emergency vehicle and causing the death of a police officer, fire fighter, or emergency personnel.

Application Service Fee

The Code requires that, until January 1, 2002, a \$1 service fee be added to each fee collected for an original, renewal, duplicate, or corrected operator's or chauffeur's license. The fee must be credited to the General Fund and used to defray the Secretary of State's expenses. The bill would delete the January 1, 2002, expiration date.

License Denial for Other Offenses

The Code prohibits the Secretary of State from issuing a license to particular individuals, including a person who has been convicted of or received a juvenile disposition for OUIL or OWI resulting in death or serious impairment; unlawfully passing a stationary emergency vehicle and killing a police officer, fire fighter, or other emergency personnel; driving without a license and causing death or serious impairment; or negligent homicide, manslaughter, or murder resulting from the operation of a vehicle. Under the bill, the Secretary of State still would be required to deny a license upon receiving the appropriate records of conviction. The bill, however, would omit reference to a juvenile disposition.

The Code also prohibits the Secretary of State from issuing a license to a person who is a habitual violator of the criminal laws relating to OUIL, OWI, or driving with an unlawful bodily alcohol content; a person who is a habitually reckless driver; or a person who is a habitual criminal. The Code provides that certain repeat offenses or combinations of offenses within seven or 10 years are prima facie evidence that a person is a habitual violator or a habitually reckless driver, and two convictions of a felony in which a motor vehicle was used are prima facie evidence that a person is a habitual criminal. Under the bill, the Secretary of State still would be required to deny a license upon receiving the appropriate records of conviction. The bill, however, would omit references to a habitual violator, habitual criminal, or habitually reckless driver, and references to prima facie evidence.

Senate Bill 470

Currently, failure to stop at the scene of a serious personal injury accident is a Class E offense against a person, with a statutory maximum prison term of five years. Under the bill, that classification would apply to failure to stop at the scene of an accident resulting in serious impairment. Failure to stop at the scene of an accident resulting in death would be a Class C offense against a person, with a statutory maximum of 15 years.

MCL 257.303 et al. (S.B. 469)
777.12 (S.B. 470)

Legislative Analyst: S. Lowe

FISCAL IMPACT

Senate Bills 469 and 470 would have an indeterminate fiscal impact on State and local government for violations, and would result in additional service fee revenue.

In 1998, according to the Department of Corrections Annual Statistical Report, 45 offenders were convicted of failure to stop at the scene of an accident. There are no data available to indicate whether the personal injury resulted in serious impairment of a body function or death. Under the bill, offenders convicted of failure to stop at the scene of an accident that resulted in death would be subject to a Class C felony penalty with a minimum sentencing range from 0-11 months to 62-114 months. Other offenders would be subject to the current penalty for the offense, which is a Class E felony with a minimum sentencing range from 0-3 months to 24-38 months.

Assuming that 45 offenders a year are convicted of failing to stop at the scene of an accident, of those 10 offenders are convicted of the more serious felony, and all offenders receive the longest minimum sentence, given that the average annual cost of incarceration is \$22,000, then the costs of incarceration would be \$4.5 million, or an increase of \$1.4 million. If offenders received the shortest sentences, costs of incarceration would be incurred by local governments or by the State for felony probation at \$4.23 per day.

According to the Department of State published report on collected fees and the number of transactions, 1,997,653 chauffeur's and operator's licenses were issued in fiscal year 1999-2000. The elimination of the sunset on the \$1 service fee collected on these applications would result in approximately \$2,000,000 in additional driver fee revenue.

Fiscal Analyst: K. Firestone
J. Runnels