

Legislative Analysis



DRIVING WITH HIGH BAC LEVELS: PROVIDE ENHANCED PENALTIES

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House Bills 4285 and 4286
Sponsor: Rep. Rick Jones
Committee: Judiciary

Complete to 4-19-05

A SUMMARY OF HOUSE BILLS 4285 AND 4286 AS INTRODUCED 2-15-05

House Bill 4286 would create enhanced penalties for drunk driving violations involving a blood alcohol content (BAC) level of 0.20 grams or more, and House Bill 4285 would amend the corresponding sections of the sentencing guidelines statute. Details of the two bills follow.

House Bill 4286 would amend the Michigan Vehicle Code (MCL 257.319 et al.). Currently, the code defines "operating while intoxicated" to mean either 1) the person is under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance; or, 2) the person has an alcohol content of 0.08 grams or more per 100 milliliters of blood (BAC), per 210 liters of breath, or per 67 milliliters of urine (beginning October 1, 2013, the BAC will be raised to 0.10 grams or more).

The bill would add a third level of intoxication – having an alcohol content of 0.20 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine. Penalties for a violation would be as follows:

First offense – a misdemeanor punishable by not more than 90 days of community service; imprisonment for not more than 180 days; and/or a fine of not less than \$200 or more than \$1,000.

Second offense within seven years of a prior conviction – a felony with a mandatory fine of between \$400 and \$2,000 in addition to imprisonment for not less than two years or more than seven years and/or at least 60 days but no more than 180 days of community service. Any term of imprisonment imposed could not be suspended.

Third or subsequent offense within 10 years of 2 or more prior convictions – a felony with a mandatory fine between \$1,000 and \$10,000 and mandatory imprisonment of at least two years but not more than ten years. Any term of imprisonment imposed could not be suspended.

In addition, the following would apply:

- The court could order the vehicle to be immobilized for a first offense and would have to order the vehicle immobilized for a second or subsequent conviction per time frames specified in the code.
- The court could order the forfeiture of the vehicle.
- The person's driver's license would be suspended for one year if he or she had only one violation within seven years. After 90 days of suspension, the secretary of state could issue the person a restricted license.
- The secretary of state would have to immediately suspend or revoke, as applicable, all vehicle group designations on the person's operator's or chauffeur's license for a period of three years for driving with a BAC of 0.20 grams or higher while operating a commercial motor vehicle.

Furthermore, the bill would make several changes that are primarily editorial in nature and would delete an obsolete provision regarding a 2002 report on the effects and impact made by changes to the drunk driving laws in 1998.

House Bill 4285 would amend the sentencing guidelines portion of the Code of Criminal Procedure (MCL 777.12f). The bill would specify that a second or subsequent offense of operating a vehicle with a BAC of 0.20 grams or higher would be a Class D felony against the public safety. A second offense would carry a maximum term of imprisonment of seven years. A third of subsequent offense would carry a maximum term of imprisonment of ten years. The bill is tie-barred to House Bill 4286.

FISCAL IMPACT:

To the extent that first offenders received longer jail terms, the bill could increase costs for county jails. To the extent that repeat offenders were sentenced for felonies instead of misdemeanors, state costs would increase and local costs would decrease. State costs also could increase to the extent that felons were sentenced to longer prison terms. The state could incur increased costs of imprisonment in a state prison at an average appropriated cost of about \$29,000 per prisoner per year, and of felony probation supervision at an average cost of about \$1,977 per offender per year. Any increases in penal fine collections would go to local libraries, which are the constitutionally-designated recipients of those revenues.

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