

DRUNK DRIVING REVISIONS

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Senate Bill 1134 (Substitute H-1)

Sponsor: Sen. Alan Cropsey

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 12-11-08

A SUMMARY OF SENATE BILL 1134 AS REPORTED BY THE HOUSE JUDICIARY COMMITTEE 12-10-08

The bill would amend the Michigan Vehicle Code (MCL 257.303 et al.) to create a high BAC category of drunk driving, impose enhanced penalties for a first offense, require a longer period of license suspension, require installation of an ignition interlock device as a condition for a restricted license, and require placement in a rehabilitative program as part of a sentence for a first high BAC offense. The bill is tie-barred to House Bill 4289 and would take effect January 31, 2010. (House Bill 4289, as passed by the Senate, would also amend the Michigan Vehicle Code and would contain various provisions relating to ignition interlock devices and requirements and restrictions imposed on drivers ordered to have one installed.)

Among other things, Senate Bill 1134 would make the following substantive changes:

**** Create a high BAC or “superdrunk” category of “operating while intoxicated” for individuals having a BAC of 0.17 grams or more. (BAC refers to the alcohol content in a person’s blood, breath, or urine.)**

**** Provide enhanced penalties for a high BAC offense. A first offense high BAC would be a misdemeanor punishable by a maximum of 180 days (increased from 93 days) and/or a fine of at least \$200 but not more than \$700 (increased from not less than \$100 but not more than \$500). The maximum community service that could be imposed would remain at no more than 360 hours. The penalties for a subsequent high BAC offense would be the same as for any repeat drunk driving offense.**

**** Require the Secretary of State (SOS) to suspend the driver’s license of an individual for a high BAC offense for one year if he or she had no prior convictions within the previous seven years or not more than two convictions within ten years. A restricted license would have to be issued, but not during the first 45 days of suspension.**

**** Require a person convicted of a high BAC offense from operating a vehicle under a restricted license unless the vehicle was equipped with an approved and properly installed ignition interlock device. “Ignition interlock device”, as defined in the bill, would include devices calibrated so that the vehicle could not be started if the BAC level of the operator reached 0.025.**

**** Require, before an ignition interlock device was removed, verification that the person had operated the vehicle with no instances of reaching or exceeding a BAC of 0.025.**

**** Require the SOS to impose an additional period of license suspension and restriction if the person violated the conditions of the restricted license or attempted to operate a vehicle with a BAC of 0.025. This provision would not apply to a start-up test failure within the first two months after the device had been installed.**

**** Prohibit a person issued a restricted license requiring an ignition interlock device from removing the device or causing it to be removed unless the SOS issued an order authorizing its removal.**

**** Require a court to order a person convicted of a high BAC offense to participate and complete one or more rehabilitative programs as part of the sentence. Currently, this requirement only applies to repeat drunk driving offenses. The bill would also specify that appropriate rehabilitative programs would include, but not be limited to, an alcohol treatment program or a self-help program for a period of not less than one year. In addition, the treatment plan would have to be devised from an assessment performed by an appropriately licensed alcohol assessor and approved by the court. The requirement to screen and assess offenders prior to imposing sentence for a drunk driving offense and to order appropriate rehabilitative treatment would not require the person to successfully complete an ordered rehabilitative program before driving a vehicle with an ignition interlock device on a restricted license.**

FISCAL IMPACT:

The bill would create enhanced misdemeanor penalties for first-offense drunk driving convictions where the offender had a blood alcohol content of .17 or higher. To the extent that misdemeanor offenders were sentenced to longer jail stays or longer terms of misdemeanor probation supervision, local units of government could incur increased costs; those costs vary with jurisdiction.

Any impact on local correctional systems would depend on how many offenders were sanctioned for per se blood alcohol levels of .17 or higher. According to data published by the Michigan State Police in the 2007 Annual Drunk Driving Audit (which compiles data entered into the law enforcement information network by state and local law enforcement agencies), of almost 36,000 breathalyzer tests, about 31,600 indicated BAC of .10 or higher. Of almost 8,600 blood tests, about 2700 indicated a BAC of .10 or higher. The average breathalyzer test result was .15; the average blood test result was .06. Data to indicate the number of tests indicating BAC of .17 or higher are not available.

Any increase in the amount of penal fine revenues collected could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

POSITIONS:

The Prosecuting Attorney Association of Michigan (PAAM) supports the bill. (12-10-08)

The Michigan Ignition Interlock Providers Association supports the bill. (12-10-08)

The Michigan Restaurant Association is neutral on the bill. (12-10-08)

The Michigan Licensed Beverage Association is neutral on the bill. (12-10-08)

The Office of Secretary of State supports the concept of a high BAC offense, but would like the effective date to be delayed until October 1, 2010 when the changes to the office's information technology systems would be capable of implementing the bill's provisions. (12-10-08)

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■ 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.