

Legislative Analysis



WORK ZONE INJURIES AND DEATHS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4468 (Substitute H-1)

Sponsor: Rep. Pam Byrnes

House Bill 4469 without amendment

Sponsor: Rep. Barb Byrum

Committee: Transportation

Complete to 10-29-07

A SUMMARY OF HOUSE BILLS 4468 & 4469 AS REPORTED FROM COMMITTEE

Under the Michigan Vehicle Code, a person who commits a moving violation and as a result causes injury to a person working in a work zone is guilty of a misdemeanor, and a person who commits a moving violation and as a result causes death to a person working in a work zone is guilty of a felony. House Bill 4468 would amend the code (at MCL 257.601b) so that the misdemeanor and felony offenses would apply if a violation caused injury or death to "another person in the work zone" rather than to "a person working in the work zone."

House Bill 4469 would amend the Code of Criminal Procedure (MCL 777.12e) to make complementary amendments to felony sentencing guidelines provisions. It is tie-barred to House Bill 4468. Currently, the code refers to a "moving violation causing death to [a] construction worker." The bill would make the code refer instead to a "moving violation causing death to another person in a work zone." (The felony is a Class C felony against a person.)

The misdemeanor penalty is a fine of not more than \$1,000 and/or imprisonment for not more than one year. The felony penalty is a fine of not more than \$7,500 and/or imprisonment for not more than 15 years. The penalties only apply if the moving violation is one for which at least three points are assigned under Section 320a of the Vehicle Code. Offenses that result in three points being assigned include improper passing, driving over the lawful maximum speed in a work zone (45 miles per hour) by 10 miles per hour or less, exceeding the lawful maximum speed by more than 10 miles per hour but less than 15 miles per hour, or careless driving.

House Bill 4468 would also remove a provision that requires, whenever practical, that signs be placed in a construction work zone notifying drivers of the increased fines and penalties that exist for the protection and safety of construction workers. (This would not affect the signs that indicate when a work zone begins and ends.)

FISCAL IMPACT:

The bill would establish a new misdemeanor and felony. The bill's fiscal impact on local and state correctional systems would depend on how it affected the numbers of convictions and severity of sentences. The average appropriated cost of incarceration in a state prison is about \$31,000 per prisoner, a figure that includes allocated portions of various fixed costs. The state's average cost of felony parole and probation supervision is about \$2,000 per supervised offender per year. Costs of any jail incarceration or misdemeanor probation supervision would be borne by local units of government, and vary by jurisdiction. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

BACKGROUND INFORMATION:

Negligent Homicide.

The penalty for negligent homicide (750.324) in the Penal Code is as follows:

Any person who, by the operation of any vehicle upon any highway or upon any other property, public or private, at an immoderate rate of speed or in a careless, reckless or negligent manner, but not wilfully or wantonly, shall cause the death of another, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than \$2,000, or by both such fine and imprisonment.

Enhanced Penalties.

Public Act 320 of 1996 put in place the original provision (since amended) on enhanced penalties for injuries and deaths to individuals working in work zones. That same act included two other enhanced penalty provisions, for emergency scenes and for school zones 30 minutes before school in the morning and after school in the afternoon. However, in those cases, the Vehicle Code doubles the fines for moving violations and does not address injuries or deaths.

The emergency scene provision applies to "a traffic accident, a serious incident caused by weather conditions, or another occurrence along a highway or street for which a police officer, firefighter, or emergency medical personnel are summoned to aid an injured victim." A "school zone" refers to school property on which a school building is located and the area adjacent to the school property that is designated by the required signs. With some exceptions, the school zone extends not more than 1,000 feet from the property line of the school in each direction."

The Vehicle Code also contains an enhanced penalty (MCL 257.601c) very similar to that for injuring or killing construction workers in work zones, for causing injury or death to a person operating an implement of husbandry on a highway. (This applies anywhere, not only in a work zone.) An "implement of husbandry" refers to "a vehicle which is a farm tractor, a vehicle designed to be drawn by a farm tractor or an animal, a vehicle which

directly harvests farm products, or a vehicle which directly applies fertilizer, spray, or seeds to a farm field."

Committee Testimony

Expansion of Enhanced Penalties. Proponents of the bill say that the heightened penalties currently applied when a person working in a work zone is injured or killed by a driver committing a moving violation should be extended to apply when anyone is injured or killed in a work zone rather than apply only to construction workers. The lesser penalties that apply outside of work zones (such as those for negligent homicide) are not severe enough. Testimony before the House Committee on Transportation described an accident in which a young woman who had slowed her vehicle down in a work zone on I-94 near Chelsea was rear-ended and killed by an inattentive driver who hit her with his cruise control set at 68 miles per hour. Had this driver killed a construction worker in the zone, he would have been subject to a felony penalty that includes imprisonment up to 15 years. The death of the driver involved in the collision was instead subject to negligent homicide penalties of up to two years (and in fact the sentence was for six months). Proponents say most fatalities in work zones are motorists (over 85 percent reportedly).

Removal of Sign Requirement. Representatives of the Michigan Infrastructure and Transportation Association (MITA) testified in support of removing the requirement in the Vehicle Code that signs be posted in work areas notifying drivers of the increased penalties for injuring or killing construction workers. Their testimony was that moving the signs increases the danger to workers at construction sites and that the signs are a distraction to motorists. A representative of the State Police testified that, generally speaking, signs create congestion and congestion creates crashes. The State Police said it was generally good for traffic safety to reduce oversigning.

POSITIONS:

The Department of State Police is neutral on the bill. (10-25-07)

MITA supports the substitute, with the provision that removes the requirement that signs be placed in construction zones notifying drivers of the enhanced penalties for injuring or killing a worker. (10-25-07)

Legislative Analyst: Chris Couch

■ 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.