

Legislative Analysis



USE OUT-OF-STATE CONVICTIONS TO DETERMINE DUI PRIOR CONVICTIONS

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House Bill 5160 (Substitute H-1)
Sponsor: Rep. James Marleau
Committee: Judiciary

Complete to 2-29-08

A SUMMARY OF HOUSE BILL 5160 AS REPORTED BY COMMITTEE 2-27-08

BACKGROUND INFORMATION:

Certain violations of the Michigan Vehicle Code involving alcohol may receive enhanced sentences for repeat offenses. The code specifically allows a conviction under any Michigan state law, or local ordinances and laws of another state substantially corresponding to a Michigan state law, to be counted in determining if the offender has one or more prior offenses. The term "state" is defined under the vehicle code (at MCL 257.65) to include any state, territory, or possession of the United States, Indian Country, the District of Columbia, and Canada and its provinces and territories, but does not specifically reference federal law.

A concern has been raised that the phrase "a law of another state" is unclear and may be interpreted to exclude drunk driving violations occurring on federal land under federal law, such as on military bases. The bill would address this concern by including a reference to "a law of the United States."

THE CONTENT OF THE BILL:

The bill would amend the Michigan Vehicle Code (MCL 257.625) to revise the definition of "prior conviction" found in the drunk driving provision and for which an enhanced penalty would apply. Currently, a conviction for any of the listed offenses are treated as a prior conviction whether the conviction was for a violation of a state law in Michigan, a local ordinance substantially corresponding to a state law, or a law of another state substantially corresponding to a state law in Michigan.

The bill would add to the above, convictions under a law of the United States substantially corresponding to a law in this state. The bill would take effect July 1, 2008.

FISCAL IMPACT:

The bill's fiscal impact on state and local correctional systems would depend on how it affected the numbers of convictions and severity of sentences. There are no data to indicate how many offenders might be affected by the bill.

To the extent that the bill increased the numbers of offenders sentenced to prison or to felony probation supervision, or increased sentence length, the state could experience increased costs. Average appropriated costs of prison incarceration are roughly \$32,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. Costs of parole and probation supervision average about \$2,000 per supervised offender per year. To the extent that more offenders were sentenced to jail, affected counties could experience increased costs; jail costs vary by county.

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

POSITIONS:

The Prosecuting Attorneys Association of Michigan supports the bill. (2-27-08)

Mothers Against Drunk Driving (MADD) indicated support for the bill. (2-27-08)

Michigan Ignition Interlock Providers Association indicated support for the bill. (2-27-08)

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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.