



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 479 (Substitute S-1 as passed by the Senate)
Senate Bill 480 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Roger Kahn, M.D.
Committee: Transportation

Date Completed: 6-7-07

RATIONALE

Public Act 458 of 2000 amended the Michigan Vehicle Code to require drivers, when approaching and passing stationary emergency vehicles, to move to an adjacent lane going in the same direction or, if doing so is not possible, reduce speed and proceed cautiously. The emergency vehicles this applies to include police cars, fire trucks, ambulances, and, under a 2004 amendment, road service vehicles, or wreckers. Drivers who violate the so-called "move over" law are subject to criminal sanctions, including felony penalties if a worker is injured or killed. The law is designed to protect emergency personnel who often work at the side of busy roadways, where the risk of an impact with a moving vehicle can be high. It now has been suggested that similar provisions should be enacted to regulate driving around other types of stationary vehicles, including trash collection vehicles and utility trucks, where workers are exposed to traffic and potential injury.

CONTENT

Senate Bill 479 (S-1) would amend the Michigan Vehicle Code to require a driver to exhibit due care (by changing lanes or reducing speed, depending on the circumstances) when approaching and passing a stationary solid waste collection vehicle, utility service vehicle, road service vehicle, or road maintenance vehicle that was giving a visible signal; and establish criminal penalties for violations of this requirement.

Senate Bill 480 (S-1) would amend the Code of Criminal Procedure to include in the sentencing guidelines felony violations of the requirement proposed by Senate Bill 479 (S-1).

Senate Bill 480 (S-1) is tie-barred to Senate Bill 479. Each bill would take effect 90 days after it was enacted.

Senate Bill 479 (S-1)

The bill would require the driver of a vehicle, in the manner described below, to exhibit due care and caution when approaching and passing a stationary solid waste collection vehicle, a utility service vehicle, a road service vehicle, or a road maintenance vehicle that was giving a visual signal by means of flashing, rotating, or oscillating red or amber lights, as permitted by the Vehicle Code.

On any public roadway with at least two adjacent lanes going in the same direction as the stationary vehicle, the driver of the approaching vehicle would have to proceed with caution and yield the right-of-way by moving into a lane with at least one moving lane or two vehicle widths apart from the stationary vehicle. If moving to an adjacent lane or two vehicle widths apart were not possible due to weather, road conditions, or the immediate presence of vehicular or pedestrian traffic in parallel moving lanes, the driver would have to proceed as follows.

On any public roadway without two adjacent lanes going in the same direction as the stationary vehicle, the driver of the approaching vehicle would have to reduce

and maintain a safe speed for weather, road conditions, and vehicular or pedestrian traffic and proceed with due care and caution.

Except as provided below, a person who violated these requirements would be guilty of a misdemeanor punishable by a maximum fine of \$500 or imprisonment for up to 90 days, or both.

The offense would be a felony if the violator caused injury or death to an employee of the solid waste hauler, the utility provider, the road service provider, or the road maintenance authority in the immediate area of the stationary vehicle. In the case of injury, the penalty would be a maximum fine of \$1,000 or imprisonment for up to two years, or both. In the case of death, the maximum fine would be \$7,500 and the maximum term of imprisonment would be 15 years.

The criminal penalties would not apply if the employee were acting in careless disregard for his or her own safety at the time of the violation.

The bill would define "solid waste collection vehicle" as a solid waste transporting unit that is used for the curbside collection of municipal solid waste. "Solid waste", "solid waste hauler", and "solid waste transporting unit" would mean those terms as defined in Section 11506 of the Natural Resources and Environmental Protection Act. (That section defines "solid waste" as garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, municipal and industrial sludges, solid commercial and solid industrial waste, and animal waste other than organic waste generated in the production of livestock and poultry. "Solid waste hauler" means a person who owns or operates a solid waste transporting unit, which is a container that may be an integral part of a truck or other piece of equipment used for the transportation of solid waste.)

The bill would define "utility service vehicle" as a vehicle owned or operated by a utility provider. A "utility provider" would be an entity that does any of the following and is regulated as a utility under the laws of this State or the United States:

-- Generates or distributes electrical power to the public.

- Generates or distributes natural gas to the public.
- Provides sewage collection services to the public.
- Provides water distribution services to the public.
- Provides telephone services to the public.
- Provides cable or video services to the public.

"Road service vehicle" would mean a vehicle that is owned and operated by a road service provider and that is clearly marked and readily recognizable as a vehicle used to assist disabled vehicles. A "road service provider" would be a person who is engaged in the business of providing roadside mechanical assistance or towing services to individuals with disabled vehicles.

"Road maintenance vehicle" would mean a vehicle owned or operated by a road maintenance authority. A "road maintenance authority" would be the Michigan Department of Transportation (MDOT); a local authority that has jurisdiction of roadways; or an entity operating under contract with MDOT or a local authority to provide road construction or road maintenance services.

Senate Bill 480 (S-1)

Under the bill, failure to use due care and caution causing injury to an employee of a solid waste hauler, utility provider, road service provider, or road maintenance authority would be a Class G offense against a person, with a statutory maximum term of two years.

Failure to use due care and caution causing death to an employee of a solid waste hauler, utility provider, road service provider, or road maintenance authority would be a Class C offense against a person, with a statutory maximum term of 15 years.

Proposed MCL 257.653b (S.B. 479)
MCL 777.12g (S.B. 480)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bills' provisions mirror those enacted in 2000 to protect drivers of emergency vehicles. Like police officers, fire fighters, and other emergency personnel, individuals who collect trash, perform utility work, and maintain roadways often find themselves on or beside a busy street where they could be hit by inattentive or impatient motorists. According to a 2005 report by the University of Michigan Transportation Research Institute, between 1997 and 2000, 573 garbage/refuse trucks and 404 service/utility vehicles were involved in fatal crashes in the United States. Although Michigan drivers are now accustomed to moving over for emergency vehicles, they are not legally required to take similar safety measures for other stopped vehicles where workers are present.

Protecting all roadside workers is the focus of a nationwide movement, called "Slow Down to Get Around", which encourages motorists to reduce their speed and proceed cautiously when driving around service vehicles. This public campaign was begun several years ago by an Ohio-based waste and recycling company after one of its workers was killed and, within a week, another was seriously injured when they were struck by cars while collecting residential garbage. While the impetus for the Slow Down to Get Around movement involved trash collection, it is designed to accommodate any industry employing workers who perform duties on roadways.

In Michigan, the movement has been embraced by the City of Lansing and surrounding communities, and Governor Granholm has proclaimed the week of June 10, 2007, as Slow Down to Get Around Campaign Week. While billboards and commercials may help protect roadside workers through increased public awareness, Senate Bills 479 (S-1) and 480 (S-1) would put the force of the law behind these efforts. The bills would extend to trash collectors, utility workers, and road maintenance crews the same protections that now exist for police officers, fire fighters, emergency personnel, and wrecker operators. At the same time, preventing roadside workers' injuries and deaths also would increase the safety of motorists who otherwise might be involved in an accident.

Supporting Argument

In addition to the motorists who pass them, the individuals who collect trash or perform utility or road maintenance work should act responsibly. If a worker is recklessly hanging onto a moving truck, falls off, and is struck by an approaching driver, for example, it would be unfair to prosecute the driver. Under the bills, the criminal penalties would not apply if an employee were acting in careless disregard for his or her own safety.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed offenses involving failure to use caution when approaching or passing solid waste, utility, road service, or road maintenance vehicles. An offender convicted of the Class C offense under the bills would receive a sentencing guidelines minimum sentence range of 0-11 months to 62-114 months. An offender convicted of the Class G offense would receive a sentencing guidelines minimum sentence range of 0-3 months to 7-23 months. Local governments would incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.