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BILL ANALYSIS

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Senate Bills 479 and 480 (as introduced 5-8-07)
Sponsor: Senator Roger Kahn, M.D.
Committee: Transportation

Date Completed: 5-25-07

CONTENT

Senate Bill 479 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, or road maintenance vehicle that was giving a visible signal; and establish criminal penalties for violations of this requirement.

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

Senate Bill 480 is tie-barred to Senate Bill 479.

Senate Bill 479

In the manner described below, the bill would require the driver of a vehicle to exhibit due care and caution when approaching and passing a stationary solid waste collection vehicle, a utility service vehicle, or a road maintenance vehicle that was giving a visual signal by means of flashing, rotating, or oscillating 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, 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 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 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; or an entity operating under contract with MDOT or a local authority to provide road construction or road maintenance services.

Senate Bill 480

Under the bill, failure to use due care and caution causing injury to an employee of a solid waste hauler, utility 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, 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)

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, 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.