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BILL ANALYSIS

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House Bill 5160 (Substitute H-1 as passed by the House)

Sponsor: Representative James Marleau

House Committee: Judiciary

Senate Committee: Judiciary

Date Completed: 11-5-08

CONTENT

The bill would amend the Michigan Vehicle Code to include in the definition of "prior conviction", in the Code's drunk driving provisions, a conviction under a law of the United States substantially corresponding to a law of this State regarding the operation of a vehicle while under the influence of or impaired by alcohol or drugs.

Generally, violations of Section 625 of the Code (described below) carry enhanced penalties if they occur within seven years of a prior conviction or after two or more prior convictions, regardless of the number of years that elapsed since any prior conviction. Section 625 defines "prior conviction" as a conviction, whether under a law of this State, a local ordinance substantially corresponding to a law of this State, or a law of another state substantially corresponding to a Michigan law, for any of the following:

- A violation or attempted violation of Section 625, or any prior enactment of that section, involving the operation of a vehicle while under the influence of intoxicating or alcoholic liquor and/or a controlled substance, or while visibly impaired or with an unlawful bodily alcohol content.
- A violation or attempted violation of Section 625m of the Code.
- Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle, or an attempt to commit any of those crimes.

The bill would include as a "prior conviction" a conviction for any of the above under a law of the United States substantially corresponding to a law of this State.

(Section 625 prohibits all of the following:

- The operation of a motor vehicle by a person who is under the influence of alcohol and/or a controlled substance; who has an alcohol content of .08 gram or more per 100 milliliters of blood, 210 liters of breath, or 67 milliliters of urine; or whose ability to operate a vehicle is visibly impaired due to the consumption of alcohol.
- The operation of a motor vehicle by a person who is under 21 years of age if he or she has "any bodily alcohol content" (i.e., either .02 gram or more but less than .08 gram per 100 milliliters of blood, 210 liters of breath, or 67 milliliters of urine, or any presence of alcohol within the person's body resulting from the consumption of alcohol other than as a part of a generally recognized religious service or ceremony).

- The operation of a motor vehicle by a person who has in his or her body any amount of a Schedule 1 controlled substance or cocaine.
- Causing the death or serious impairment of a body function of another person due to the operation of a motor vehicle while under the influence of or impaired by alcohol and/or a controlled substance, or with any bodily amount of a Schedule 1 controlled substance or cocaine.
- The operation of a motor vehicle under any of the circumstances described above while another person who is under 16 is occupying the vehicle.

Section 625m prohibits the operation of a commercial motor vehicle by a person who has an alcohol content of .04 gram or more, but less than .08 gram, per 100 milliliters of blood, 210 liters of breath, or 67 milliliters of urine.)

MCL 257.625

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many more offenders' sentences would take into account prior convictions under Section 625 based on Federal violations. To the extent that the bill would increase incarceration time, local governments would incur increased costs of incarceration in local facilities, which vary by county. To the extent that the bill increased incarceration time for felonies, or resulted in felony rather than misdemeanor convictions, the State would incur increased costs of felony probation at an annual average cost of \$2,000, as well as increased costs of incarceration in a State facility at an average annual cost of \$32,000. 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.