

Legislative Analysis



TRAFFIC ENFORCEMENT ON PRIVATE ROADS

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House Bill 4416 as introduced
Sponsor: Rep. Frank Foster
Committee: Judiciary

First Analysis (5-5-11)

BRIEF SUMMARY: The bill would allow a county to contract with the owner, or person in charge, of a private road to enforce traffic laws on that road, in the same way that cities, townships, and villages already can.

FISCAL IMPACT: The bill would have no fiscal impact on state government and an indeterminate fiscal impact on local government.

THE APPARENT PROBLEM:

Currently, owners of private roads that are open to the general public – for instance, subdivisions, strip malls – can contract with their city, township, or village to have the local police enforce traffic laws on the private roads. However, the owners of the private roads must install proper signage (stop signs, speed limit signs) before the police will enter and enforce the traffic laws.

Apparently, some private roads in the state fall outside the jurisdiction of a city, township, or village police agency. For instance, not all local units operate their own police agency; some small municipalities contract with a nearby city, village, township, or county law enforcement agency for police services. Moreover, due to budget constraints, some municipalities have opted instead to close down their police agencies and contract with the county sheriff's department for law enforcement services.

If a public road is located in a jurisdiction in which police services are provided by a county sheriff's department, existing statutes do not give authority to counties to enter into the agreements with owners of private roads to provide traffic enforcement. Legislation has been offered to correct what some believe to be an oversight.

THE CONTENT OF THE BILL:

Under certain conditions, peace officers may enforce provisions of the Michigan Vehicle Code on private roads open to the general public, such as in subdivisions. The code defines "private road" as a privately owned and maintained road which allows access to more than one residence or place of business, is normally open to the public, and upon which persons other than the owners located on the road may also travel.

Specifically, at present, a **city, township, or village** may contract with a person who owns or is in charge of a private road that is open to the general public, at that person's request

or with that person's consent, to enforce provisions of the vehicle code on that private road. A peace officer is authorized to enter upon a private road open to the general public to enforce provisions of the act if signs meeting the requirements of the Michigan Manual of Uniform Traffic Control Devices are posted on the private road. (Responsibility for the cost and posting of the signs is with the owner or person in charge of the road who entered into a contract as described above.) The bill would amend the Michigan Vehicle Code (MCL 257.601a) to provide the same authority to **counties**.

ARGUMENTS:

For:

The bill corrects what some see as an oversight or lapse in the law. If enacted, a county could enter into contracts, or agreements, with the owners of private roads for officers of the sheriff's department to enter and enforce state traffic laws on the private roads – in general, developments such as subdivisions and strip malls. At a time when local governmental units are either consolidating police services with neighboring municipalities or closing out their police agencies altogether and contracting with the county sheriff's department for police services, some developments are finding that there is no statutorily-authorized police agency to enforce traffic laws on their roads. The bill would not mandate sheriff's deputies to patrol these roads, but would allow a county to agree to have them do so.

Under provisions of the vehicle code, any law enforcement officer, including state police troopers, can enforce certain state traffic laws on a private road – for instance, drunk driving or reckless driving laws. However, the bill is necessary to ensure that all owners of private roads would have access to a police agency for traffic law enforcement, regardless of the jurisdiction in which they are located.

Response:

The bill amends the vehicle code to allow sheriff's deputies to enforce state traffic laws on private roads if an agreement is in place between the private road owner and the county and proper signage installed. But many municipalities have adopted local traffic laws. The enforcement of local traffic ordinances on a private road is contained in a separate act – the Uniform Traffic Code, or UTC (MCL 257.951). If officers of a sheriffs' department are limited to writing tickets under a local ordinance in those jurisdictions having local ordinances, it may be necessary to also amend the UTC to authorize agreements with counties for enforcement of local traffic ordinances on private roads.

POSITIONS:

The Michigan State Police are neutral on the bill. (4-28-11)

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