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Senate Bill 353 (as introduced 5-3-11)
Sponsor: Senator Dave Robertson
Committee: Judiciary

Date Completed: 9-12-11

CONTENT

The bill would amend the Michigan Vehicle Code to do all of the following:

- **Prohibit a person from operating a vehicle while under the influence (OUI) of any intoxicating substance.**
- **Prohibit a person from operating a vehicle while impaired (OWI) due to the consumption of any intoxicating substance.**
- **Prohibit a person from allowing a vehicle to be operated by a person who was under the influence of, or visibly impaired by the consumption of, any intoxicating substance.**
- **Require a jury or court to make a finding as to whether a person charged with OUI or OWI was under the influence of an intoxicating substance or a combination of alcohol, a controlled substance, or another intoxicating substance.**

"Intoxicating substance" would mean any substance or combination of substances, other than alcohol or a controlled substance, that may affect the nervous system, brain, or muscles of a person so as to impair, to an appreciable degree, the person's ability to operate a vehicle in the manner that an ordinary prudent and cautious person, in full possession of his or her faculties, using reasonable care, would operate a similar vehicle under like conditions.

Operating While Under the Influence

The Vehicle Code prohibits a person from operating a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles if the person is operating while intoxicated. Operating while intoxicated includes a situation in which a person operates a vehicle while he or she is under the influence of alcohol, a controlled substance, or a combination of alcohol and a controlled substance. Under the bill, the OUI prohibition would include the operation of a vehicle by a person who was under the influence of alcohol, a controlled substance, or any other intoxicating substance or a combination of alcohol, a controlled substance, and another intoxicating substance.

Operating While Impaired

Under the Code, a person may not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles while his or her ability to operate the vehicle is visibly impaired due to the consumption of alcohol, a controlled

substance, or a combination of alcohol and a controlled substance. Under the bill, the OWI prohibition would include the operation of a vehicle by a person whose ability to operate a vehicle was visibly impaired due to the consumption of alcohol, a controlled substance, or another intoxicating substance, or a combination of alcohol, a controlled substance, or another intoxicating substance.

Allowing Use of Vehicle

Under the Code, the owner of a vehicle or a person in charge or in control of a vehicle may not authorize or knowingly permit the vehicle to be operated by another person upon a highway or other place open to the general public or generally accessible to motor vehicles if that other person is under the influence of alcohol and/or a controlled substance or the person's ability to operate a vehicle is visibly impaired due to the consumption of alcohol and/or a controlled substance. Under the bill, this prohibition would apply to a person who was under the influence of, or visibly impaired by the consumption of, alcohol, a controlled substance, or another intoxicating substance or a combination of alcohol, a controlled substance, or another intoxicating substance.

Jury or Court Finding

If a person is charged with OUI or OWI, the court must require the jury to return a written finding as to whether the person was under the influence of a controlled substance or a combination of alcohol and a controlled substance at the time of the violation. If the court convicts the person without a jury or accepts a plea of guilty or no contest, the court must make the finding. Under the bill, the jury or court would have to make a finding as to whether the person was under the influence of a controlled substance or another intoxicating substance or a combination of alcohol, a controlled substance, or another intoxicating substance at the time of the violation.

MCL 257.625

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. To the extent that the inclusion of any other intoxicating substance led to an increase in OUI or OWI convictions, both the State and local units of government could incur additional costs. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,500, as well as the cost of incarceration in a State facility at an average annual cost of \$34,000. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Matthew Grabowski

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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.