



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 97 (as reported without amendment)
Sponsor: Senator John Proos
Committee: Transportation

(as passed by the Senate)

Date Completed: 2-13-13

RATIONALE

Michigan law requires a child under the age of four to be secured in a child restraint system while traveling in a motor vehicle. A driver who does not secure a child as required is responsible for a civil infraction. The court must waive the penalty, however, if the driver presents evidence that he or she has acquired an adequate child seating system. Evidently, some violators borrow or purchase a car seat to show the court and avoid paying the fine, and subsequently return it. It has been suggested that the mandatory waiver provision be deleted so that imposition of the penalty would be left to the judge's discretion.

CONTENT

The bill would amend the Michigan Vehicle Code to eliminate a requirement that a court waive penalties for a violation of child restraint system requirements if the violator acquires a child restraint system before his or her appearance date.

Except as otherwise provided, Section 710d of the Code requires a driver transporting a child younger than four years old in a motor vehicle to secure the child properly in a child restraint system that meets Federal standards. The driver must position the child in the restraint system in a rear seat, if the vehicle is equipped with a rear seat. If all available rear seats are occupied by children under the age of four, a child may be positioned in the child restraint system in the front seat. A child in a rear-facing child restraint system may be placed in the front seat only if the front passenger airbag is deactivated.

A violation of Section 710d is a civil infraction for which a person may be ordered to pay a maximum civil fine of \$10 and costs. In addition, unless the total fine and costs imposed for the violation are \$10 or less, the person may be ordered to pay a \$40 justice system assessment.

The court must waive any civil fine, cost, or assessment against a person who received a civil infraction citation for a violation of Section 710d if, before the appearance date on the citation, the person supplies the court with evidence of acquisition, purchase, or rental of a child seating system meeting the Code's requirements. The bill would delete this provision.

MCL 257.907

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

Some people evidently take advantage of the mandatory fine waiver to avoid responsibility for endangering children, and continue to transport those children without a car seat after appearing in court. Reportedly, law enforcement officers have ticketed some drivers for this violation more than once. Under the current law, the entire penalty must be waived if the violator presents evidence that he or she has acquired a car seat, even if he or she is a repeat offender or did not acquire the seating system in good faith. Instead of

prompting the use of proper safety measures, this loophole has encouraged some people to continue engaging in bad behavior.

Furthermore, the statute does not contain a similar penalty waiver requirement with regard to a violation of the State's booster seat requirement, which applies to passengers who are between the ages of four and eight and less than four feet, nine inches tall. Eliminating the mandatory waiver for a car seat violation would create uniformity, enable judges to impose penalties when appropriate, and emphasize the serious nature of failing to secure a young child in a proper restraint system.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have an indeterminate, but likely minor and positive, fiscal impact on State and local government. There are no data to indicate how many violators get their penalties waived by showing evidence of acquisition of a child restraint system. However, for each violator whose penalties would not be waived, the generated revenue would range from \$85 to \$103. This total includes a \$10 fine (which benefits public libraries), \$35 to \$53 in court costs (which reimburse local courts), and a \$40 justice system assessment (which benefits a variety of State entities such as the Highway Safety Fund of the Michigan State Police).

Fiscal Analyst: Dan O'Connor

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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.