

IMPAIRED DRIVING SAFETY COMMISSION ACT

Phone: (517) 373-8080
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House Bill 5024 as introduced
Sponsor: Rep. Peter J. Lucido
Committee: Judiciary
Complete to 2-8-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5024 creates a new act to establish a commission charged with researching and recommending a threshold of THC bodily content that would constitute evidence for *per se* impaired driving. The new act would take effect January 1, 2016.

The new act would be known as the Impaired Driving Safety Commission Act, which would, among other things, do the following:

Create the Impaired Driving Safety Commission

- Appointed by the Governor, membership would comprise the director of the Department of State Police (or a designee), one M.D. or D.O., one forensic toxicologist, one medical marijuana patient, and one professor from three different Michigan public research universities (clarification as to whether this is one professor selected from any of the three state research universities or three professors, one selected from each of the three research universities, is expected).
- Appointees must have significant experience or involvement in studying marijuana, substance abuse, or impaired driving, as well as have good moral character. An appointee could not have been charged with a felony or misdemeanor involving a controlled substance, theft, dishonesty, or fraud.
- Members must be appointed within 90 days of the bill's effective date.
- Members would serve without compensation but would be reimbursed for actual and necessary expenses incurred in the performance of their official duties.
- Commission business must be conducted in accordance with the Open Meetings Act, and writings prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function would be subject to the Freedom of Information Act.
- The commission would be abolished upon submission of a final report that would include an appropriate threshold of THC for a *per se* impaired driving violation.

Commission Duties

The Commission must do all of the following:

- Identify sources for grants to assist in defraying the cost of researching the effects of marijuana on driving.
- Fund a research program at a public research university to determine the appropriate threshold for a *per se* THC bodily content for impaired driving. (See *Background Information*.)

- Collect and analyze information regarding marihuana-induced impaired driving and the THC bodily content impairment thresholds.
- Review and analyze research and state laws relating to the THC bodily content thresholds that provide evidence for *per se* impaired driving.
- File a final report with the Governor and Legislature no later than July 1, 2017. The report must include, but not be limited to, the results of the Commission's research program, recommendations for an appropriate threshold of the THC bodily content to provide evidence for *per se* impaired driving, and recommendations for further legislative action.

Impaired Driving Commission Safety Fund

The Fund would be created within the Department of Treasury but administered by the Department of State Police, contingent upon appropriation of money to the Fund. All money received by the Commission (including grants) would be state funds and appropriated by law. Money in the Fund could be expended only upon appropriation and only in a manner to carry out the act's purpose. Money remaining in the Fund at the close of the fiscal year must lapse to the General Fund.

Repealer

The act would be repealed on the date the Commission's final report to the Governor, Senate Majority Leader, and Speaker of the House of Representatives is filed **or** on July 1, 2017, whichever occurs first.

Effective date

BACKGROUND INFORMATION:

Operating a motor vehicle while intoxicated or impaired by the consumption of alcohol, illegal drugs, and some prescription medications, or any combination of these substances is against the law and a violator faces criminal penalties as well as license sanctions and fines. Alcohol has a *per se* threshold for drunk driving, meaning that a person is guilty of drunk driving if the person's bodily alcohol content (BAC) level is 0.08 or higher. A person is guilty of drugged driving if the person has any amount of a Schedule 1 controlled substance (illegal narcotics, hallucinogens, etc.), or cocaine.

Marihuana currently is listed (both on the federal and state drug schedules) as a Schedule 1 drug. Unlike other Schedule 1 drugs, however, the component of marihuana responsible for most of the psychological effects, THC, may be detected in the saliva or blood, and in particular hair or urine, long after the ability to affect a person's driving ability has dissipated. According to a report issued by the Governors Highway Safety Association, five states had enacted laws establishing a *per se* threshold for impaired driving for THC as of August, 2015. [Hedlund, James (n.d.). Drug-impaired Driving: A Guide for What States Can Do. Retrieved from http://ghsa.org/html/files/pubs/GHSA_DruggedDrivingt2015_R5_LoResInteractive.pdf]

FISCAL IMPACT:

This bill would have an indeterminate fiscal impact on the Department of State Police (MSP). This bill creates the Impaired Driving Safety Commission Fund (Fund), but does not appropriate any initial funding. The Impaired Driving Safety Commission (Commission), which would be created under the MSP, would be tasked with seeking out funding to conduct the research mandated in this bill, presumably from private and/or federal grants.

It is unknown how much funding a research project assessing the influence of THC on the ability to operate a vehicle safely would require. It is also unclear as to whether or not the MSP would be required to fund the research project if the Commission is unable to secure outside sources of funding. While the creation of the Fund is dependent upon appropriations to the Fund, the responsibilities of the Commission would not be. Presumably then if no outside funds were obtained by the Commission, the full cost of the project would have to be covered by existing MSP resources.

The members of the Commission would not be compensated for their services. However, the MSP would be responsible for any incidentals or administrative costs.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Kent P. Dell

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.