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BILL



ANALYSIS

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Senate Bill 332 (Substitute S-3 as reported by the Committee of the Whole)  
Senate Bill 333 (Substitute S-1 as reported)  
Sponsor: Senator Rick Jones  
Committee: Judiciary

### **CONTENT**

Senate Bill 332 (S-3) would amend the Michigan Liquor Control Code to do the following:

- Designate a first violation by a minor (a person under 21 years old) for purchasing, possessing, or consuming alcohol, or having any bodily alcohol content--i.e., a minor in possession (MIP)--as a State civil infraction rather than a misdemeanor (with subsequent violations continuing to be misdemeanors).
- Allow a minor to be found responsible or admit responsibility for a State civil infraction for MIP only once.
- Allow the deferral and dismissal of an MIP violation only for an individual who had no prior judgments of an MIP misdemeanor.
- Require the Secretary of State to suspend the driver license of a person convicted of a second or subsequent MIP violation, rather than for any MIP violation.
- Allow a peace officer to request, rather than require, a minor to submit to a preliminary chemical breath analysis if the officer has reasonable cause to believe the minor consumed alcohol.
- Allow the results of a preliminary chemical breath analysis or other acceptable blood alcohol test to be admitted in a State civil infraction proceeding or criminal prosecution.
- Delete authorization for a peace officer to arrest a person based on the results of a preliminary chemical breath analysis.
- Delete a provision making it a State civil infraction for a minor to refuse to submit to a breath analysis.

Senate Bill 333 (S-1) would amend the Michigan Vehicle Code to delete a requirement that the Secretary of State suspend the driver license of a person who commits certain alcohol-related violations and has one prior MIP conviction.

The Vehicle Code requires the Secretary of State to suspend a person's driver license for 90 days for any the following offenses, if the person has one prior conviction for any of them:

- Transportation or possession of alcoholic liquor in an open container.
- Transportation or possession of alcoholic liquor in a motor vehicle by a person under 21 years of age.
- Minor in possession.

Under the bill, that license sanction would apply only to a person who committed one of those offenses and had one prior conviction for either of the first two offenses listed above.

Senate Bill 333 (S-1) is tie-barred to Senate Bill 332. Each bill would take effect 90 days after its enactment.

### **FISCAL IMPACT**

Senate Bill 332 (S-3) could reduce total incarceration and court costs for State and local government. According to Michigan State Police data, between 2009 and 2013, a total of approximately 40,000 arrests were made for the purchase, consumption, or possession of alcohol by a minor for a first, second, third, or subsequent offense. According to the State Court Administrative Office, for calendar year 2014, for the courts that submitted data, there were approximately 9,300 convictions for a first offense, 365 convictions for a second offense, and 176 convictions for a third offense. If the proposed change in offense classification resulted in lower court and incarceration costs, and civil infraction revenue remained the same, there could be a net benefit to local law enforcement entities.

Senate Bill 333 (S-1) would result in the loss of an estimated \$170,800 in restricted revenue annually for the Department of State. According to fiscal year 2014-15 data, the Department collected nearly \$171,000 in reinstatement fees from approximately 1,367 drivers whose driver licenses were suspended due to having one prior conviction for an MIP violation. The Department collects a \$125 reinstatement fee from people whose driver licenses have been revoked or suspended. Revenue from the reinstatement fee is used to fund the Department's operations. The estimated loss in revenue from the bill's deletion of the required license suspension for a person with one prior MIP conviction could not be absorbed within current annual appropriations and could result in the delay of future improvements or the layoff of up to 2.0 FTE employees.

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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.