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BILL



ANALYSIS

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House Bill 5024 (Substitute H-2 as passed by the House)
Sponsor: Representative Peter J. Lucido
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 11-29-16

CONTENT

The bill would create the "Impaired Driving Safety Commission Act" to establish the Commission and do the following:

- **Specify the Commission's responsibilities, including funding a university research program to determine the appropriate threshold of THC bodily content to provide evidence of per se impaired driving.**
- **Require the Commission to file a final report with the Governor and legislative leaders within two years after the bill's effective date.**
- **Require the Governor to appoint members of the Commission who met certain criteria and to appoint a chairperson of the Commission.**
- **Create the "Impaired Driving Safety Commission Fund", contingent upon the appropriation of money to the Fund.**
- **Repeal the proposed Act upon the filing of the Commission's final report or two years after the bill's effective date, whichever occurred first.**

The bill would take effect 90 days after its enactment.

Commission Responsibilities

The "Impaired Driving Safety Commission" would be created within the Michigan Department of State Police (MSP). The Commission would have to research and recommend a scientifically supported threshold of THC bodily content to provide evidence for per se impaired driving in Michigan. The Commission would exist until it submitted a final report to the Governor and legislative leaders.

The Commission would have to 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 of THC bodily content to provide evidence for per se impaired driving.
- Collect and analyze information regarding marijuana-induced driving and THC bodily content impairment thresholds.
- Review and analyze research and state laws, in Michigan and other states, relating to THC bodily content thresholds that provide evidence for per se impaired driving.
- File a final report with the Governor, the Senate Majority Leader, and the Speaker of the House regarding its activities under the Act.

The Commission would have to file the report within two years after the bill's effective date. The report would have to include the results of the Commission's research program, recommendations for an appropriate threshold of THC bodily content to provide evidence for per se impaired driving, and recommendations for further legislative action.

The term "THC" would mean delta-9-tetrahydrocannabinol acid. "Marihuana" would mean that term as defined in the Public Health Code (MCL 333.7106).

("Per se" refers to something of, in, or by itself, without reference to additional facts; or as a matter of law.)

Commission Membership & Procedures

The Commission would consist of the following six members, appointed by the Governor within 90 days after the bill's effective date:

- The MSP Director or his or her designated representative from within the Department.
- One physician, licensed under the Public Health Code.
- One forensic toxicologist.
- One qualified and registered patient under the Michigan Medical Marihuana Act.
- Two professors from two different public research universities in Michigan.

Only individuals meeting those qualifications who had significant experience or involvement in studying marihuana, substance abuse, or impaired driving could be appointed. An individual would not be eligible to serve on the Commission if he or she did not possess good moral character, or had been charged with a felony or misdemeanor involving a controlled substance, theft, dishonesty, or fraud under the laws of Michigan, another state, the United States, or a local ordinance substantially corresponding to Michigan law.

Commission members would serve unless or until the Governor appointed a successor member. If a vacancy occurred, the Governor would have to make an appointment for the unexpired term in the same manner as the original appointment.

The Commission's first meeting would have to be called within 30 days after the members were appointed. The Governor would have to appoint one member to serve as the Commission's chairperson. The chairperson would serve for the entirety of the Commission's term unless he or she were removed or resigned, in which case the Governor would have to appoint another member to serve as chairperson.

Commission members would serve without compensation but would have to be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the Commission.

The Governor could remove a member of the Commission for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

The Commission would have to establish its own procedures and requirements with respect to quorum, place and conduct of meetings, and other matters. The procedures would have to be printed in an appropriate manual and be made available to the Governor, the Senate Majority Leader, and the Speaker of the House.

The Commission would have to comply with the Open Meetings Act and the Freedom of Information Act.

Impaired Driving Safety Commission Fund

The "Impaired Driving Safety Commission Fund" would be created within the State Treasury. The Fund would be administered by the MSP. Creation of the Fund would be contingent upon appropriation of money to it.

The Commission could apply for and obtain grants from any source to carry out the purpose of the proposed Act. All funds received by the Commission would be State funds and would have to be appropriated as provided by law.

Money in the Fund could be spent only upon appropriation and only in a manner to carry out the purposes of the Act. Money in the Fund at the close of the fiscal year would remain in the Fund and could not lapse to the General Fund.

Repeal of the Act

The proposed Act would be repealed on the date the Commission's final report to the Governor, the Senate Majority Leader, and the Speaker of the House was filed or two years after the bill's effective date, whichever occurred first.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the MSP. As described above, the bill would create the Impaired Driving Safety Commission, and the Impaired Driving Safety Commission Fund. Although it would require the MSP to provide for reimbursement for "actual and necessary expenses" and administrative costs connected with the official duties of the six Commission members, the bill would not appropriate any money for deposit into the proposed Fund. Whether funding, if any, would be obtained from outside sources or from within the State appropriations for the MSP for deposit into the Fund, cannot be determined at this time.

The bill would have no fiscal impact on local government.

Fiscal Analyst: Bruce Baker

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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.