Legislative Analysis

CHEMICAL ANALYSIS OF DRIVER'S SAMPLES

Senate Bill 80 as passed by the Senate
Sponsor: Sen. Wayne Schmidt
House Committee: Judiciary
Senate Committee: Judiciary
Complete to 9-18-17

SUMMARY:

The bill would do the following:
- o Specify that the results of a chemical analysis of a driver's urine taken after an accident is admissible in a civil or criminal proceeding.
- o Consider a person to have given consent to chemical tests of blood, breath, or urine if reasonable cause exists that the person was the driver of a vehicle that caused a fatal accident and define "fatal accident."
- o Specify that the results of a chemical test described above are admissible in a criminal prosecution for those crimes for which implied consent applies.

Senate Bill 80 would amend provisions of the Michigan Vehicle Code pertaining to chemical tests used in determining the amount of alcohol or presence of a controlled substance or other intoxicating substance, or any combination of these, in a driver's blood or urine.

** Currently, if, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for medical treatment, the results of a chemical analysis of that sample is admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or other intoxicating substance at the time alleged. This applies whether the person had been offered or had refused a chemical test.

The bill would also apply the provision to the results of a chemical analysis on the driver's urine, if a sample were obtained.

** Currently, if after an accident, the driver of a vehicle involved is deceased, a sample of the decedent's blood is required to be withdrawn in a manner directed by the medical examiner.

The bill would instead require the blood to be withdrawn in a manner directed by the law enforcement officer. (The blood sample is taken to determine the amount of alcohol or the presence of a controlled substance or other intoxicating substance, or any combination, in the decedent's blood.)

** Currently, a person who operates a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including parking lots, is

considered to have given consent to a chemical test of his or her blood, breath, or urine if the driver is arrested for a violation of certain laws, for instance, a violation of the drunk and drugged driving laws or manslaughter resulting from the operation of a motor vehicle.

The bill would add that implied consent also applies if the peace officer has reasonable cause to believe that the person was the operator of a vehicle that caused a fatal accident. "Fatal accident" would be defined as an accident that involves at least one vehicle and that results in death or serious bodily injury that gives the peace officer reason to believe that the death of at least one person is imminent.

The results of a chemical test obtained under this new provision would be admissible in a *criminal* prosecution for a crime described above (crimes for which implied consent applies) if the court determines that reasonable cause exists–independent of the test results– to believe that the person was impaired by or under the influence of alcohol, a controlled substance or other intoxicating substance, or a combination of any of these.

The bill would take effect 90 days after enactment.

MCL 257.625a and 257.625c

FISCAL IMPACT:

This bill would have no fiscal impact on the Department of State Police or local law enforcement agencies.

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