

DRIVER LICENSE SANCTION RE: MIP LAW

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Senate Bill 630 reported from committee as substitute H-1

Sponsor: Sen. Rick Jones

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 12-11-17

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

(Enacted as Public Act 235 of 2017)

BRIEF SUMMARY: Senate Bill 630 would revise a provision within the Michigan Vehicle Code pertaining to driver's or chauffeur's license sanctions that may be imposed on a person who fails to answer a citation or a notice to appear in court issued for certain violations of the minor in possession (MIP) law to comport with changes to the MIP law made by Act 357 of 2016.

FISCAL IMPACT: Senate Bill 630 would have fiscal implications for state and local units of government. See *Fiscal Information*, below, for more information.

THE APPARENT PROBLEM:

Under Section 703 of the Michigan Liquor Control Code, known as the minor in possession (MIP) law, a person under the age of 21 is prohibited from purchasing, consuming, or possessing alcohol; from attempting to purchase, consume, or possess alcohol; or from generally having any bodily alcohol content. Currently, a first violation is a misdemeanor punishable by a fine of up to \$100. A court may order community service and substance abuse screening and assessment (at the minor's own expense). In addition, certain driver's license sanctions may be imposed, even for a nondriving offense. A new law, Act 357 of 2016, is about to take effect to change a first violation of the MIP law from a misdemeanor to a civil infraction. Some say that this necessitates a corresponding change to a provision in the Michigan Vehicle Code that pertains to driver's license sanctions related to MIP violations.

Under the Vehicle Code currently, a person may have his or her driver's license suspended if he or she fails to appear in court when ordered, fails to complete any court-ordered sanctions such as community service, or fails to pay any fines or fees imposed for the offense. This applies whether the MIP violation is a first or a repeat violation.

The Vehicle Code also contains a similar license suspension that applies to civil infractions when a person fails to appear in court, complete any court orders, or pay any fines or fees. However, the time period a person has to make things right with the court before the license suspension is triggered is shorter for a criminal action than it is for a civil infraction. It has been noted that unless the law is changed, a person facing a license sanction related to a civil infraction violation of the MIP law after Act 357 of 2016 takes effect will be subject to the same time periods reserved for a criminal violation of that law. Legislation addressing the issue has been offered.

THE CONTENT OF THE BILL:

Senate Bill 630 would amend provisions within the Michigan Vehicle Code regarding driver's license sanctions related to a violation of Section 703(1) of the Michigan Liquor Control Code (the minor in possession, or MIP, law). Currently, if a person is charged with, or convicted of, a violation of Section 703(1) [which includes both first and repeat offenses], or a local ordinance substantially corresponding to that section, and the person fails to answer a citation or notice to appear in court issued under the MIP law or fails to comply with an order or judgment of the court issued under the MIP law (e.g., paying all fines and costs), the court is required to immediately give notice by first-class mail that if the person fails to appear within 7 days after the notice was issued, or fails to comply with the order or judgment of the court within 14 days, the secretary of state (SOS) must suspend the person's driver's or chauffeur's license. The court must also immediately inform the SOS, who must then suspend the person's license and notify the person of the suspension by first-class mail. [The same sanctions also apply to a charge or conviction under Section 624a or 624b of the Michigan Vehicle Code (which prohibit, respectively, transporting or possessing an open container of alcohol in a vehicle or transporting or possessing alcohol in a vehicle by a person less than 21 years of age). These sanctions would not be affected by the bill.]

The bill would amend the provision described above to refer instead to a charge or conviction of violating Section 703(1)(b) or (c) of the Liquor Control Code (repeat violations under the MIP law)—rather than referring to Section 703(1), which currently includes first and repeat offenses. (Section 703(1)(b) contains the penalty for a second violation, and Section 703(1)(c) contains the penalty for a third or subsequent violation. A second or subsequent violation of the MIP law will remain a misdemeanor offense after Act 357 of 2016 takes effect on January 1, 2018.)

A person could still have his or her driver's or chauffeur's license suspended for failing to appear in court or complying with a court order regarding a civil infraction for a first violation of the MIP law, but the time frame and sanctions would be different. Under the bill, a civil infraction issued for a first violation of the MIP law would default to the provisions contained in Section 321a(2) of the Code. Section 321a(2) pertains to civil infractions and specifies that 28 days or more after a person fails to answer a citation or a notice to appear in court for a first-offense MIP violation or fails to comply with a court order or judgment (including paying all fines, costs, fees, and assessments), a court would have to give notice by mail to the person's last known address that failure to appear or comply with an order or judgment within 14 days after the notice is issued will require the court to give notice of that failure to the SOS, upon which the SOS would have to immediately suspend the person's driver's or chauffeur's license. The suspension would remain in force until the person answered the notice to appear or paid any fine or cost and paid a driver license clearance fee of \$45.

If enacted, Senate Bill 630 would take effect January 1, 2018, the same day as Act 357 of 2016.

MCL 257.321a

HOUSE COMMITTEE ACTION:

The House committee adopted and reported an H-1 substitute. As passed by the Senate, a person who failed to respond to a citation imposed for a first violation of the MIP law would have been subject to Section 321a(9), which does not include a requirement for license suspension. The House substitute, by comparison, simply reserves application of the current provision regarding license suspension for failure to appear or comply with court orders for an MIP violation only for repeat offenses. Driver license sanctions for noncompliance with a civil infraction citation would default to Section 321a(2), which similarly provides for license suspension for noncompliance, just with a longer time period in which to comply before a court sends notice to the person of impending license suspension.

BACKGROUND INFORMATION:

Act 357 of 2016, which will take effect January 1, 2018, amended the MIP law to, among other things, change the sanction for a first violation from a misdemeanor to a state civil infraction with a fine of up to \$100. The court may still order community service and substance abuse screening and assessment at the minor's expense. Act 357 of 2016 limits the ability of a minor to be found responsible or admit responsibility under this provision to only one time.

FISCAL INFORMATION:

Senate Bill 630 reflects the revisions made by Act 357 of 2016 to the minor in possession law that changed the sanction for a first violation from a misdemeanor to a civil infraction. Misdemeanor convictions increase costs related to county jails and/or local misdemeanor probation supervision. These costs vary by jurisdiction. Revenue from criminal fines are allocated to public libraries. On the other hand, *civil infraction sanctions* increase revenues going to the state Justice System Fund, which supports various justice-related endeavors in the judicial branch, and the Departments of State Police, Corrections, and Health and Human Services.

The bill could result in a very limited decrease in revenue to the Department of State (DOS), and other departments, due to a decrease in license reinstatement fee revenue. Under the bill, first-time Minor in Possession of alcohol offenses would be covered under subsection (2) of Section 321a, which provides for additional time before the Secretary of State is notified to cancel an individual's driver license from the period currently provided for under subsection (4). Data to determine the precise scope of the decrease were not available for this analysis. However, the bill could also provide for a slight increase in revenue to the various units described in Section 321a(11) due to the first-time MIP violation being eligible to be charged the \$45 license clearance fee.

Other state departments that receive revenue from driver license reinstatements are the Department of Transportation, the Judiciary, and the Michigan State Police. The distribution of revenue from a \$125 reinstatement fee is shown below.

Department	Amount	Fund	Description
Secretary of State (State)	\$50	Reinstatement Fees	Supports various operations within the Secretary of State.
Transportation	\$35	Economic Development Fund	Funds highway, road, and street projects that support economic growth.
Judiciary	\$30	Drunk Driving Fund	Funds the drunk driving case-flow program which assists trial courts with timely disposition of drunk driving offense cases.
State Police	\$10	Drunk Driving Prevention and Training Fund	Supports the purchase and maintenance of breath-alcohol testing equipment and training to law enforcement officers on using the equipment.

ARGUMENTS:

For:

The bill, which was requested by the State Court Administrative Office (SCAO), is seen as a technical fix. Simply put, the bill would ensure that a person with a civil infraction for a first-time violation of the MIP law would be treated the same under the Michigan Vehicle Code as for any other civil infraction. Without the bill, the person would still be treated as if he or she had violated a criminal law.

The main difference between the bill and continuing to treat a civil infraction MIP in the same manner as for a misdemeanor MIP is the time period a person would have in order to appear in court or to pay all fines before the secretary of state (SOS) is notified to suspend the person's license. In that sense, the bill merely clarifies that the shorter time period between when a person fails to comply and before a license is suspended would be reserved for repeat violations of the MIP law, which remain misdemeanor offenses.

Against:

No arguments in opposition to the bill were offered.

POSITIONS:

A representative of the State Court Administrative Office (SCAO) testified in support of the bill. (11-28-17)

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