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BILL



ANALYSIS

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Senate Bill 80 (as introduced 2-1-17)
Sponsor: Senator Wayne Schmidt
Committee: Judiciary

Date Completed: 2-13-17

CONTENT

The bill would amend the Michigan Vehicle Code to do the following:

- Specify that, if a driver's urine were obtained for medical treatment after a motor vehicle accident, the results of a chemical analysis of the sample would be admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or other intoxicating substance in the urine.**
- Provide that a person would be considered to have given consent to chemical tests of his or her blood, breath, or urine if a peace officer had reasonable cause to believe that the person was the operator of a vehicle that caused a fatal accident.**
- Provide that the results of a chemical test in a fatal accident would be admissible in a criminal prosecution if the court determined that reasonable cause existed, independent of the test results, to believe that the person was impaired or under the influence of alcohol, a controlled substance, and/or other intoxicating substance.**
- Require a sample of blood taken from a deceased driver of a vehicle involved in an accident to be withdrawn in a manner directed by a law enforcement officer, rather than as directed by the medical examiner.**

The bill would take effect 90 days after its enactment.

Admissibility of Urine Analysis

Under the Code, if the driver of a vehicle involved in an accident is transported to a medical facility and a sample of his or her blood is withdrawn at that time for medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or other intoxicating substance in his or her blood, regardless of whether the person had been offered or had refused a chemical test.

Under the bill, if the driver's blood were withdrawn or his or her urine were obtained for medical treatment, the results of a chemical analysis of either or both of those samples would be admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or other intoxicating substance in the person's blood or urine.

Implied Consent & Admissibility of Sample

The Code provides that a person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, is considered to have

given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or other intoxicating substance, or any combination of them, in his or her blood or urine or the amount of alcohol in his or her breath if the person is arrested for any of the following:

- Various impaired or drunk driving violations.
- A moving violation causing the death of another person or serious impairment of a body function to another person.
- Reckless driving causing the death of another person or serious impairment of a body function to another person.
- Manslaughter or murder resulting from the operation of a motor vehicle when the peace officer had reasonable grounds to believe the person was operating the vehicle while impaired or under the influence of alcohol, a controlled substance, or other intoxicating substance, or a combination of those substances.

Under the bill, a person also would be considered to have given consent to chemical tests of his or her blood, breath, or urine if a peace officer had reasonable cause to believe that the person was the operator of a vehicle that caused a fatal accident. As used in that provision, "fatal accident" would mean an accident that involves at least one vehicle and that results in either 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 for which a person was considered to have given consent in the case of a fatal accident would be admissible in a criminal prosecution for a crime described above if the court determined that reasonable cause existed, independent of the test result, 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 alcohol, a controlled substance, or another intoxicating substance.

Sample of Decedent's Blood

The Code provides that if, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood must be withdrawn in a manner directed by the medical examiner to determine the amount of alcohol or the presence of a controlled substance or other intoxicating substance, or any combination of them, in the decedent's blood. Under the bill, the sample would have to be withdrawn in a manner directed by the law enforcement officer rather than by the medical examiner.

MCL 257.625a & 257.625c

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or 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.