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Senate Bill 216 (Substitute S-1 as passed by the Senate)  
Senate Bill 217 (as passed by the Senate)  
Sponsor: Senator Sean McCann (S.B. 216)  
Senator Thomas Albert (S.B. 217)  
Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 7-23-25

## **RATIONALE**

In 2016, a person driving a truck in Kalamazoo hit nine cyclists. Five were killed and four were injured. The driver was charged with five counts of second-degree murder and four counts of reckless driving causing serious impairment. According to testimony before the Senate Committee on Civil Rights, Judiciary, and Public Safety, the severity of the charges against the driver are not the norm and current law generally places less culpability on drivers who injure non-motorized roadway users, with the victim often having to prove the event took place due to severe negligence. Often these drivers are charged only with a misdemeanor, such as in an incident in Kent County involving the death of a tow-truck driver who was struck and killed while helping a dog in the median of a road in 2023.<sup>1</sup> Additionally, while traffic crashes in Michigan decreased from 2022 to 2023, crashes involving vulnerable roadway users like pedestrians and bicyclists increased by 10%.<sup>2</sup> Accordingly, it has been suggested to increase penalties to protect vulnerable roadway users.

## **CONTENT**

**Senate Bill 216 (S-1) would amend the Michigan Vehicle Code to do the following:**

- Define "vulnerable roadway user" and "vulnerable transportation device" to refer to individuals at greater risk on the road, such as pedestrians, bikers, equestrians, and operators of low-speed devices.
- Prescribe penalties for an individual who committed a moving violation against a vulnerable roadway user or individual operating an implement of husbandry on a highway that resulted in injury requiring inpatient treatment at a medical facility or death.
- Add violations or attempted violations of causing serious harm or death to a vulnerable roadway user to the list of violations that could result in the SOS revoking an individual's license.
- Apply provisions requiring drivers approaching and passing a stationary emergency vehicle to slow down and drive cautiously to all stationary vehicles.
- Refer to green or rear and front warning lights, in addition to flashing, rotating, or oscillating red, blue, or white lights, in the requirement that a driver exhibit due care and caution upon approaching and passing a stationary authorized emergency vehicle that is giving a visual signal by means of those lights.

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<sup>1</sup> "There is Nothing Else we Could Charge": Man Faces Misdemeanor Charge in Death of Tow Driver Keagan Spencer". Fox17 West Michigan. Retrieved 7-1-25. <https://www.fox17online.com/news/local-news/kent/there-is-nothing-else-we-could-charge-man-faces-misdemeanor-charge-in-death-of-tow-driver-keagan-spencer>

<sup>2</sup> Raymo, Dennis, "Overall crash numbers fell in 2023 but pedestrian and bike crashes rose", *MSP Newsroom*, July 10, 2024.

-- Specify that a person who did not pass with due caution and care a stationary authorized emergency vehicle with police officer, firefighter, or other emergency personnel present would be responsible for a civil infraction and a civil fine of \$750. The bill also would repeal Section 653b of the Code, which requires drivers to slow down and drive cautiously when approaching and passing certain utility service vehicles, road maintenance, and solid waste collection vehicles.

**Senate Bill 217 would add sentencing guidelines to the Code of Criminal Procedure for felony penalties proposed by Senate Bill 216 (S-1).**

The bills are tie-barred, and each bill would take effect 90 days after its enactment.

Senate Bill 216 (S-1) is described in greater detail below.

Under the bill, "vulnerable roadway user" would mean any of the following:

- A pedestrian.
- An individual using roller or inline skates.
- An individual using a non-motorized scooter or skateboard.
- An individual using a wheelchair.
- An individual riding a horse, pony, donkey, mule, or hinny (equine) or driving or riding an equine-drawn carriage.
- An individual operating or riding a vulnerable transportation device in compliance with the Code.
- A United States Postal Service employee or contractor operating a vehicle on that individual's rural postal route in the course of delivering mail or parcels.

"Vulnerable transportation device" would mean a device in, on, or by which an individual is or may be transported or drawn on a highway or street by human power, or by an electrical propulsion system with an average power of 750 watts or one horsepower and a maximum speed on a paved level surface of no more than 30 miles per hour. The term would include at least the following:

- An electric personal assistive mobility device, meaning a self-balancing non-tandem two-wheeled device, designed to transport only one person at a time, having an electrical propulsion system with an average power of 750 watts or one horsepower and a maximum speed on a paved level surface of not more than 15 miles per hour
- An electric skateboard, meaning a wheeled device that had a floorboard designed to be stood upon when riding that was no more than 60 inches long and 18 inches wide, was designed to transport only one person at a time, had an electrical propulsion system with power of no more than 2,500 watts, had a maximum speed on a paved level surface of not more than 25 miles per hour, and could have handlebars.
- An electric bicycle or a bicycle.

#### Criminal Penalties for Moving Violations

Under the Code, a person who commits a moving violation that has criminal penalties and as a result causes injury to a person operating an implement of husbandry on a highway in compliance with the Code is guilty of a misdemeanor punishable by a maximum of one years' imprisonment or a maximum fine of \$1,000, or both. Additionally, a person who commits a moving violation that has criminal penalties and as a result causes death to a person operating an implement of husbandry on a highway in compliance with the Code is guilty of a felony punishable by a maximum of 15 years' imprisonment or a maximum fine of \$7,500, or both.

The bill would modify these provisions to apply to a moving violation regardless of if the violation had criminal penalties. Also, the bill specifies that these provisions would apply to an individual who committed a moving violation and as a result caused injury to a vulnerable roadway user who was in compliance with the Code.

Additionally, under the bill, an individual who committed a moving violation and as a result caused serious injury requiring inpatient treatment at a hospital or post-acute rehabilitation facility to a vulnerable roadway user or individual operating an implement of husbandry on a highway in compliance with the Code would be guilty of a felony punishable by a maximum of five years' imprisonment or a maximum fine of \$5,000, or both.

"Hospital" would mean a facility offering inpatient, overnight care, and services for observation, diagnosis, and active treatment of an individual with a medical, surgical, obstetric, chronic, or rehabilitative condition requiring the daily direction or supervision of a physician. The term would not include a mental health hospital licensed or operated by the Department of Health and Human Services or a hospital operated by the Department of Corrections.

Also, an individual who committed a moving violation and as a result caused the death of a vulnerable roadway user who was in compliance with the Code would be guilty of a felony punishable by a maximum of 10 years' imprisonment or a maximum fine of \$7,500, or both.

"Serious injury" would mean a physical injury that is not necessarily permanent, but that constitutes serious bodily disfigurement or that seriously impairs the functioning of a body organ or limb. The term would include one or more of the following:

- Loss of a limb or use of a limb.
- Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.
- Loss of an eye or ear or use of an eye or ear.
- Loss or substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state that lasts for more than three days.
- Measurable brain damage or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or hematoma.

The provisions described above would not prohibit an individual from being charged with, convicted of, or punished for a violation of any other law committed by the individual during the violation except for a violation of Section 626(4), which prescribes reckless driving penalties for a violation that caused the death of another individual.

#### SOS Point Penalties

The Code requires the SOS to record on an individual's driving record the date of a conviction or civil infraction determination and the associated number of points as prescribed by the Code. The bill would prescribe six points for a moving violation causing serious injury requiring inpatient treatment at a hospital or post-acute rehabilitation facility to a vulnerable roadway user or individual operating an implement of husbandry on a highway in compliance with the Code.

Under the Code, the SOS must revoke or deny issuance of an operator's or chauffeur's license under certain conditions, including any combination of two or more convictions within seven years of the following:

- A felony in which a motor vehicle was used.
- A violation or attempted violation in a work zone or school bus zone.
- A violation or attempted violation causing injury or death to a person operating an implement of husbandry on a highway in compliance with the Code.
- A violation or attempted violation of fleeing or eluding a visual or audible signal by a police or conservation officer to stop a motor vehicle or vessel.
- A violation or attempted violation that resulted in the death of another person while not stopping a motor vehicle or vessel for a visual or audible signal by a police or conservation officer.
- A violation or attempted violation for fleeing the scene of an accident.
- A violation or attempted violation of not exhibiting due care and caution while approaching or passing a stationary emergency vehicle causing injury or death to any response personnel.
- A violation or attempted violation of operating a motor vehicle without a license or with a revoked license resulting in injury or death to another individual.
- Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

The bill would add to the list a violation or attempted violation causing serious injury requiring inpatient treatment at a hospital or post-acute rehabilitation facility to a vulnerable roadway user or individual operating an implement of husbandry on a highway in compliance with the Code. It also would add a violation or attempted violation causing death to a vulnerable roadway user who was in compliance with the Code.

#### Penalties for Passing Stationary Vehicle Without Care

The provisions described below apply to a stationary authorized emergency vehicle. Under the bill, they would instead apply to a stationary vehicle.

Under the Code, upon approaching and passing a stationary authorized emergency vehicle that is giving a visual signal by means of flashing, rotating, or oscillating red, blue, white, or amber lights as permitted under Section 698 of the Code, the driver of an approaching vehicle must exhibit due care and caution, as described below. The bill also would refer to green lights under Section 698 or front and rear warning lamps as permitted for certain vehicles under Section 698a the Code.<sup>3</sup>

On any public roadway with at least two adjacent lanes proceeding in the same direction of a stationary authorized emergency vehicle, the driver of an approaching vehicle must reduce the vehicle's speed by at least 10 miles per hour, proceed with caution, and yield the right-of-way by moving into a lane at least one moving lane or two vehicle widths apart from the emergency vehicle, unless directed otherwise by a police officer. If a public roadway does not have at least two adjacent lanes proceeding in the same direction as the stationary authorized emergency vehicle, or if moving into an adjacent lane or two vehicle widths apart is not possible, the approaching vehicle must proceed with due care and caution and proceed by at least 10 miles per hour under the posted speed limit, or as directed by a police officer.

Currently, a person who violates the provisions described above is guilty of a civil infraction and must pay a civil fine up to \$400. Under the bill, if a person violated the provisions

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<sup>3</sup> Generally, Sections 698 of the Code prohibits the use of flashing, oscillating, or rotating lights of any color except as otherwise provided by law or under certain specified circumstances including for authorized emergency vehicles such as police and fire vehicles among others. Section 698a allows any vehicle to be equipped with lamps for the purpose of warning other drivers to display caution while approaching due to the presence of a traffic hazard.

described above and the stationary vehicle was an authorized emergency vehicle with a police officer, firefighter, or other emergency response personnel present, the person would be guilty of a civil infraction and would have to pay a civil fine up to \$750. (The Code also prescribes felony penalties if such a violation injures or kills police officer, firefighter, or other emergency response personnel.)

The bill specifies that the provisions described above would not prohibit an individual from being charged with, convicted of, or punished for any other violations of the law.

MCL 257.303(S.B. 216)  
777.12e (S.B. 217)

### **PREVIOUS LEGISLATION**

*(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)*

Senate Bill 216 is similar to Senate Bill 617, Senate Bill 618, and House Bill 5223 of the 2023-2024 Legislative Session. Senate Bill 217 is a reintroduction of House Bill 5224 of the 2023-2024 Legislative Session.

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

The bills would create appropriate punishments for individuals who drove recklessly and endangered the lives of vulnerable roadway users. Testimony before the Senate Committee on Civil Rights, Judiciary, and Public Safety indicated that drivers who kill or injure vulnerable roadway users often receive a misdemeanor penalty, which is disproportionate to the damage and pain they cause. While the State's "Move Over Law" generally requires drivers to slow down and move over a lane, or slow down and proceed with caution when passing law enforcement or emergency vehicles it does not go far enough to protect those at greater risk on the road. The bills would ensure that vulnerable victims of reckless driving received justice in the form of proper consequences for the offender and that consistency in the law leads to better enforcement.

#### **Supporting Argument**

The bill would increase flexibility for law enforcement officials and prosecutors when dealing with reckless drivers. According to testimony before the Senate Committee on Civil Rights, Judiciary, and Public Safety, drivers in car accidents involving vulnerable roadway users are punished too lightly or too severely. The bills would fill the gap by creating penalties for drivers who endangered vulnerable roadway users, allowing offenders to be properly prosecuted and punished.

#### **Supporting Argument**

Vulnerable roadway users deserve to share the road with motor vehicle drivers without fear of death or injury. Current law provides for a felony punishable by up to 15 years' imprisonment and/or a fine of \$7,500, or both, for a moving violation that caused death to a person operating an implement of husbandry, such as a piece of farm equipment. Additionally, Public Act 164 of 2023 was enacted to safeguard the lives of construction workers as they operate on freeway sites. Vulnerable roadway users should be regarded with similar deference and caution. Traffic crashes involving pedestrians or vulnerable roadway users may result from distracted driving or from a lack of traffic safety awareness, such as how to properly share the road with a cyclist. The bills' penalties could encourage drivers to prioritize the wellbeing of vulnerable roadway users by driving attentively and learning how to share the road.

Legislative Analyst: Eleni Lionas

## **FISCAL IMPACT**

Senate Bill 216 (S-1) would have a negative fiscal impact on State and local government. New felony arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities; however, it is unknown how many people would be prosecuted under the bill's provisions. The average cost to State government for felony probation supervision is approximately \$4,600 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$48,700. Per diem rates range from \$100 to \$431 per day (average per diem is \$135), depending on the security level of the facility. Any associated increase in fine revenue would increase funding to public libraries.

Additionally, the bill would impose several penalties requiring the payment of a civil fine ranging from \$25 to \$25,000 depending on the severity of the infraction. The civil fines could have a positive fiscal impact on the State and local units of government. Revenue collected from civil fines is used to support local libraries. Additionally, \$10 of the civil fine would be deposited into the State Justice System Fund. This Fund supports justice-related activities across State government in the Departments of Corrections, Health and Human Services, State Police, and Treasury. The Fund also supports justice-related issues in the Legislative Retirement System and the Judiciary. The amount of revenue to the State or for local libraries is indeterminate and dependent on the actual number of violations.

Finally, the bill would require the defendant to pay a justice system assessment of \$40 for each civil infraction determination, except for parking violations with a fine of \$10 or less. The funds would be transmitted to the State Treasurer for deposit into the State Justice System Funds with funds to be distributed as stated above. The amount of revenue collected from all imposed civil fines and the payments to the State Justice System Fund are indeterminate and depend on the number of fines imposed in a given year.

Senate Bill 217 would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

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