



Senate Fiscal Agency
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Senate Bill 627 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Don Koivisto
Committee: Financial Services

Date Completed: 1-22-95

CONTENT

The bill would amend the no-fault automobile insurance provisions of the Insurance Code to do the following:

- **Prevent an injured person who was convicted of drunk driving from recovering damages for noneconomic loss.**
- **Provide that, if injuries were caused by a drunk driver, the injured person would not have to meet the issue of whether he or she had suffered death, serious impairment of body function, or permanent serious disfigurement, for the purpose of recovering noneconomic damages.**
- **Provide that a policy could not insure a person convicted of drunk driving against loss resulting from an accident unless the injured person had suffered death, serious impairment of body function, or permanent serious disfigurement.**

The Code specifies that a person remains subject to tort liability for noneconomic loss caused by his or her ownership, maintenance, or use of a motor vehicle only if the injured person has suffered death, serious impairment of body function, or permanent serious disfigurement.

Under the bill, for a cause of action for damages allowed under this provision, filed on or after 180 days following the bill's effective date, damages could not be assessed in favor of an injured person who, for the accident that caused the injury, was convicted of a drunk driving violation of the Michigan Vehicle Code or a substantially corresponding local ordinance. In addition, the issue of whether an injured person had suffered death, serious impairment of body function, or permanent serious disfigurement would not have to be met by an injured person or the person's estate to recover noneconomic loss if the injuries were caused by a driver who, for the accident that caused the injury, was convicted of a drunk driving violation.

In addition, if a driver were convicted of drunk driving for the accident that caused an injury, an automobile liability or motor vehicle liability policy could not insure the driver against loss resulting from that accident unless the injured person had suffered death, serious impairment of body function, or permanent serious disfigurement.

The drunk driving violations of the Michigan Vehicle Code to which the bill would apply are the following:

- Operating a vehicle while the operator was under the influence of intoxicating liquor or a controlled substance, or a combination of the two (MCL 257.625(1)).
- Operating a vehicle with an alcohol content of 0.10 gram or more per 100 milliliters of blood, 210 liters of breath, or 67 milliliters of urine (MCL 257.625(3)).
- Operating a vehicle while visibly impaired by the consumption of intoxicating liquor or a controlled substance, or a combination of the two (MCL 257.625(4)).
- Operating a vehicle while under the influence or visibly impaired and causing a serious impairment of body function of another person (MCL 257.625(5)).

MCL 500.3009 & 500.3135

Legislative Analyst: S. Margules

FISCAL IMPACT

The bill would result in savings to the State and local units of government to the extent that plaintiffs in highway negligence cases who were convicted of certain offenses, would be prevented from recovering noneconomic losses.

The State of Michigan paid the following amounts for highway negligence cases over the last five fiscal years:

<u>Fiscal Year</u>	<u>Millions</u>
FY 1990-91	\$20.3
FY 1991-92	12.6
FY 1992-93	20.3
FY 1993-94	12.6
FY 1994-95	9.9

No data are available regarding the number of plaintiffs, if any, who were convicted of drunk driving in relation to the cause of action against the State.

Fiscal Analyst: B. Bowerman

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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.