

FELONIOUS DRIVING

House Bill 4596 with committee amendment

House Bill 4597 with committee amendment First Analysis (5-16-01)

Sponsor: Rep. Ruth Johnson
Committee: Criminal Justice

THE APPARENT PROBLEM:

Various state laws prohibit the reckless operation of a motor vehicle. Public Act 214 of 1931 makes it a felony to drive a vehicle upon a highway carelessly and heedlessly in willful and wanton disregard of the rights or safety of others if such driving endangers other persons or property or results in a crippling injury to another person. Punishment can include up to two years of imprisonment, a fine up to \$1,000, or both, plus a mandatory one-year suspension of the violator's driver's license. However, a shortcoming in this law was revealed last summer when a high school athlete was severely injured in an incident in her high school parking lot. According to information supplied by the Village of Holly Police Department to the bills' sponsor, a high school athlete was driving his truck backwards in the school parking lot and failed to see another high school athlete standing beside her car. The truck hit the car broadside, catching the other student between the bumper of the truck and the side of her car. The young woman sustained crushing injuries to both legs and has since required multiple surgeries.

Certain facts of the case seemed to fit the charge of felonious driving, such as the willful and wanton nature of the actions of the driver and the crippling injury to the young woman. However, since the incident occurred in a parking lot and not on a highway or street, the driver could only be charged with the lesser offense of reckless driving. Though the tragic nature of this particular incident has focused attention on the shortcomings of the felonious driving statute, it is not uncommon for serious injuries to occur in parking lots because a motorist is driving too fast or otherwise driving in a manner that puts others at risk. Therefore, legislation is being offered to expand felonious driving to include incidents occurring in parking lots. Further, the felonious driving statute is a small, stand-alone act. Some believe that this act should be repealed

and that the offense of felonious driving should be contained in the Michigan Vehicle Code.

THE CONTENT OF THE BILL:

The bills would move a provision of law prohibiting felonious driving into the Michigan Vehicle Code, expand the definition of felonious driving to include reckless driving in a parking lot, and add the corresponding sentencing guideline for felonious driving to the Code of Criminal Procedure. The bills would take effect January 1, 2002. Specifically, the bills would do the following:

House Bill 4596 would repeal Public Act 214 of 1931, which prohibits felonious driving, and place a similar provision within the Michigan Vehicle Code (MCL 257.626c). Currently, under P.A. 214, it is a felony to drive a vehicle on a highway carelessly and heedlessly in wanton disregard of the rights or safety of others, or without due caution and circumspection at a speed or in a manner that endangers or is likely to endanger any person or property so as to cripple, but not cause death. A violation is a felony punishable by up to two years of imprisonment, a fine of up to \$1,000 or both. The bill would place a substantially similar provision in the Michigan Vehicle Code, but would expand the prohibition on felonious driving to include reckless driving in a place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles.

The act also requires the secretary of state to suspend the operator's or chauffeur's license of a person convicted of felonious driving as provided in Section 319 of the Michigan Vehicle Code [MCL 257.319(2)(c)]. This provision would be repealed. [Section 319(2)(c) requires the secretary of state to immediately suspend a person's license for one year

for a violation of Section 1 of Public Act 214 of 1931.]

House Bill 4597 would amend the Code of Criminal Procedure (MCL 777.12) to specify that felonious driving would be a Class G felony against public safety, with a two-year maximum sentence of imprisonment. The bill is tie-barred to House Bill 4596.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that to the extent the bills increased the numbers of convictions for felonious driving, they could increase state or local correctional costs. To the extent that collections of penal fines increased under House Bill 4596, the bill would increase penal fine revenues going to local libraries (the state constitution dedicates penal fine revenues to local libraries). (5-15-01)

ARGUMENTS:

For:

Currently, if a person drives a car in a parking lot in a reckless manner and severely injures another person, the driver cannot be charged with felonious driving, since such a charge can only be brought against a driver if the accident occurred on a highway. This would appear to be an oversight, as the lesser charges of careless driving (a civil infraction) and reckless driving (a misdemeanor with a minimal fine and up to 90 days in jail) apply to incidents in parking lots, as do the drunk driving laws. The bills would merely correct a deficiency by expanding the felonious driving offense to include incidents occurring in parking lots. This change would parallel language in other provisions of law that relate to unsafe driving practices.

For:

Public Act 214 of 1931, the felonious driving statute, predates the Michigan Vehicle Code. House Bill 4596 would repeal Public Act 214 and move its provisions into the code. Concentrating all laws that pertain to the same subject in one act simply makes good sense.

Response:

Currently, Section 2 of Public Act 214 contains a reference to a section of the vehicle code that mandates automatic license suspensions for certain offenses [MCL 319(2)(c)]. Unfortunately, Section 319(2)(c) contains a specific reference back to Public Act 214, rather than to the offense of felonious driving. Therefore, the repeal of Public Act 214 by

House Bill 4596 will inadvertently nullify the mandatory one-year license suspension for felonious driving that is contained in the vehicle code.

Reply:

Reportedly, a companion bill to correct the reference contained in Section 319 of the vehicle code has been requested.

Against:

Parking lots are usually private property. To expand the felonious driving charge to include incidents occurring in parking lots could be seen as an infringement on personal privacy rights.

Response:

Incidents occurring in parking lots can already be cited as careless driving or reckless driving offenses, and drunk driving laws apply in parking lots, also. It is clear from current law that the state does have the authority to enforce safe driving even on privately-owned areas such as parking lots that are open to the general public or that are generally accessible to motor vehicles.

POSITIONS:

The Department of State Police supports the bill. (5-15-01)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.