

INCREASE FINES FOR SOME LOCAL ORDINANCES

House Bills 4855-4859 as introduced
First Analysis (6-26-03)

Sponsor: Rep. William Van Regenmorter
Committee: Criminal Justice

THE APPARENT PROBLEM:

Local units of government are authorized by their enabling statutes to adopt ordinances to prohibit and punish conduct for offenses that are the equivalent of misdemeanors under state law. In general, the maximum fine that can be imposed by a city, township, or village is restricted by those statutes to \$500 and the maximum term of imprisonment is restricted to no more than 90 days. A maximum fine of \$500 and a maximum term of imprisonment of 93 days can be imposed, however, for a violation of an ordinance if the violation substantially corresponds to a violation of state law for which the maximum term of imprisonment is 93 days. This allows local governments to adopt ordinances prohibiting drunk driving, domestic violence, assault and battery, retail fraud, and several other theft and property damage crimes for which state law provides a maximum of 93 days in jail. (The 93-day penalty triggers certain fingerprinting and record retention requirements that enable tracking of offenders for prosecution of repeat offenses.)

Until recently, fines for misdemeanor offenses under state law have had maximums of \$500. House Bill 4247, which would establish a blood alcohol content of 0.08 as the *per se* level for driving while intoxicated, will increase the maximum fine that can be imposed for a first offense to \$1,000. Therefore, the new maximum fine for a misdemeanor drunk driving offense will exceed the maximum allowed for local ordinances. Legislation has been proposed to amend the statutes governing cities, townships, and villages so that passage of the new drunk driving laws do not preclude enforcement of local ordinances prohibiting drunk driving.

THE CONTENT OF THE BILL:

The bills would amend various acts pertaining to the maximum fine that local units of government can impose for violations of local ordinances based on state law. Currently, the acts regulating local municipalities restrict the imposition of a fine for an

ordinance violation to no more than \$500 for a violation that substantially corresponds to a violation of state law that is a misdemeanor punishable by up to 93 days imprisonment. The bills would amend the various acts to instead specify that a violation could be fined consistent with state law. (The maximum fine would remain at \$500 for a fine imposed for a violation for which the maximum term of imprisonment does not exceed 90 days.) Several of the bills would also correct an incorrect reference to a provision within the vehicle code pertaining to imposing civil fines for civil infractions.

House Bill 4855 would amend Public Act 246 of 1945 (MCL 41.183), which regulates township boards. House Bill 4856 would amend the Charter Township Act (MCL 42.21). House Bill 4857 would amend the Home Rule City Act (MCL 117.3 and 117.4i). House Bill 4858 would amend the General Law Village Act (MCL 66.2). House Bill 4859 would amend the Home Rule Village Act (MCL 78.23 and 78.24).

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

House Bill 4247, which will amend the drunk driving law, is currently pending Senate floor action but is expected to be enacted in compliance with federal law that mandates enactment before October 1, 2003 of a state 0.08 BAC legal limit for driving while intoxicated. Among many provisions, House Bill 4247 will increase the maximum fine for a first offense, which is a 93-day misdemeanor, from \$500 to \$1,000. This poses a problem for cities, villages, and townships which have adopted local ordinances that substantially correspond to the state drunk driving laws. Under their enabling statutes, local governments cannot impose a fine that exceeds \$500.

The bill package would address this concern by removing the cap on fines and specifying instead that a fine consistent with state law could be imposed. This provision would only apply to those ordinances that substantially correspond to a misdemeanor violation that imposes a term of imprisonment of not more than 93 days. Initially, the bills would apply only to local drunk driving ordinances. However, should the legislature raise the maximum fine that could be imposed for other state 93-day misdemeanor offenses in the future, the amending language would ensure that the corresponding local ordinances could continue to be enforced.

POSITIONS:

The Prosecuting Attorneys Association of Michigan (PAAM) supports the bill. (6-25-03)

The Michigan Townships Association supports the bill. (6-25-03)

The Michigan Interfaith Council on Alcohol Problems (MICAP) supports the bills. (6-25-03)

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.