

Legislative Analysis



DRUNK DRIVING OFFENSE REVISIONS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5120 as enrolled

Public Act 62 of 2004

Sponsor: Rep. William Van Regenmorter

House Committee: Judiciary

Senate Committee: Judiciary

Third Analysis (8-11-05)

BRIEF SUMMARY: The bill would amend various drunk driving provisions in the Michigan Vehicle Code to include violations that involve the presence of Schedule 1 drugs or cocaine. The bill also would revise the definition of "alcoholic liquor" and add references to the Dominion of Canada. Further, it would require court clerks to forward to the secretary of state an abstract of a court record regarding the discharge and dismissal of charges for a violation of Section 703 of the Michigan Liquor Control Code (minors possessing, consuming, or purchasing alcohol or the attempt to do the same, or having any bodily alcohol content).

FISCAL IMPACT: The bill would have no fiscal impact on state or local government.

THE APPARENT PROBLEM:

Public Act 61 of 2003, which took effect on October 1st, amended the Michigan Vehicle Code to establish a blood alcohol content of 0.08 grams as the per se level for drunk driving. The act also created a new offense category prohibiting a person from operating a vehicle with any amount of a Schedule 1 drug or cocaine in his or her body [the new Section 625(8)]. The penalties for a violation of Section 625(8) are the same as for operating while intoxicated (0.08 BAC or higher). Apparently, in implementing the new changes, the secretary of state noticed inconsistencies in the way the vehicle code treats various drunk driving offenses. Also, some persons believe that the definition of "alcohol" needs to be broadened by going beyond the definition in the Michigan Liquor Control Code. Furthermore, recent changes to the Michigan Liquor Control Code regarding violations of the "minor in possession" law, known as MIP, require that related changes be made to the vehicle code. Legislation has been offered to address these concerns.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Vehicle Code (MCL 257.1d et al.) to make numerous changes regarded as technical or editorial in nature and require courts to forward notices to the secretary of state relating to the discharge and dismissal of a first-offense of a charge of a minor having any bodily alcohol content. The bill is tie barred to Senate Bill 637 (which became Public Act 63 of 2004), which is described later.

Drunk Driving. The bill would include a reference to Section 625(8) – no bodily amount of a Schedule 1 drug or cocaine - in various provisions that reference a violation of the drunk driving provisions. It also would make a number of corrections to citations and would add missing references to violations of Section 625(7) – committing a drunk driving offense while a person less than 16 years of age was in the vehicle - to several drunk driving provisions.

The bill would also redefine the term “alcoholic liquor.” Currently, the vehicle code uses the term as defined by the Michigan Liquor Control Code – “any spirituous, vinous, malt, or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing 1/2 of 1% or more of alcohol by volume which are fit for use for beverage purposes as defined and classified by the commission according to alcoholic content as belonging to 1 of the varieties defined in this chapter.” The bill would instead define “alcoholic liquor” to mean “any liquid or compound, whether or not medicated, proprietary, patented, and by whatever name called, containing any amount of alcohol, including any liquid or compound described in Section 105(2)” of the liquor code.

In addition, the bill would add references to the Dominion of Canada to reflect that country’s practice of treating drunk driving as a federal offense.

The above provisions would take effect May 3, 2004.

Minors in Possession. Public Act 63 of 2004 (enrolled Senate Bill 637) amended the Michigan Liquor Control Code to, among other things, allow a minor charged with a first offense of the "minor in possession" (MIP) law to have that charge dismissed without an adjudication of guilt if the conditions of probation were fulfilled. (Under Section 703 of the liquor code, it is unlawful for a person under 21 years of age to possess, consume, or purchase alcohol or attempt to do the same, or have any bodily alcohol content.) House Bill 5120 would, beginning September 1, 2004, require court clerks to forward to the secretary of state an abstract of a court record if a person pled guilty to or admitted responsibility for a violation of the MIP law and further proceedings under that section of law were deferred. If the terms and conditions of probation were fulfilled and the court discharged the individual and dismissed the proceedings, the court would also have to forward to the secretary of state a record of the dismissal of the proceedings.

The Department of State could not release information received under the above provision concerning a plea to and discharge and dismissal of a violation of the MIP law, or a substantially corresponding local ordinance, except as provided under the liquor code. This provision would take effect September 1, 2004.

ARGUMENTS:

For:

House Bill 5120 would amend the vehicle code to broaden the definition of alcohol in relation to drunk driving offenses. Currently, the code defines alcohol to mean that term

as defined by the liquor code. While it is proper for regulatory purposes to narrowly define alcohol in the liquor code, a broader interpretation is more suitable for the vehicle code since the purpose is to protect the public from individuals who would use substances that make the operation of a motor vehicle dangerous.

For:

Public Act 63 of 2004, enrolled Senate Bill 637, permits a judge to impose jail time for a second or subsequent violation of the minors in possession law. It also allows the court to discharge the individual and dismiss the charges if the minor successfully completes the terms and conditions of probation; an individual is eligible for only one discharge and dismissal and only for a first offense. Under the vehicle code, the secretary of state is required to suspend the driver's license of a minor for a violation of the MIP law. It is also unlawful under the MIP law for a person to provide a minor with a fake ID or for a minor to use a fake ID to purchase alcohol; violations of this provision also carry mandatory license sanctions. Therefore, it is necessary to amend the vehicle code to require a court to provide the secretary of state with a record of those individuals whose charges are deferred and the final disposition of those charges.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ 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.