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BILL ANALYSIS



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House Bill 5274 (Substitute H-1 as passed by the House)
Sponsor: Representative Ellen Cogen Lipton
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 4-13-10

CONTENT

The bill would amend the Michigan Vehicle Code to do the following:

- **Require the Secretary of State to issue a restricted license to an individual who was in a DWI/sobriety court program if an interlock device had been placed on each vehicle he or she owned or operated.**
- **Specify that the restricted license would allow travel only to and from a driving skills test, work, school, or alcohol or drug treatment program.**
- **Specify that the restricted license would allow the person to operate only a vehicle equipped with an ignition interlock device.**
- **Require the Secretary of State to hold in abeyance all driver responsibility fees while a DWI/sobriety court program participant had a restricted license.**
- **Exempt a program participant's vehicle from immobilization or forfeiture if the person remained in good standing with the DWI/sobriety court pilot project, satisfactorily completed the program, and did not commit subsequent violations subject to immobilization or forfeiture.**

The bill would take effect on October 31, 2010. It is tie-barred to House Bill 5273. House Bill 5273 (H-1) would create a three-year DWI/sobriety court interlock pilot project beginning on October 31, 2010, for individuals convicted of two or more violations of operating a vehicle while intoxicated or while impaired. House Bill 5274 (H-1) is described below in further detail.

Under the Code, the Secretary of State (SOS) may not issue a license to a person whose license has been revoked or revoked and denied until all of the following occur, as applicable:

- At least one year has passed since the license was revoked or denied, or at least five years have passed since the date of a subsequent revocation or denial occurring within seven years after the date of any prior revocation or denial, whichever occurs later.
- For a denial, the person rebuts by clear and convincing evidence the presumption resulting from the prima facie evidence that he or she is a habitual offender.
- The person meets the requirements of the Department of State

Under the bill, these provisions would apply except as otherwise provided under Section 304, which the bill would add. Under that section, except as otherwise provided, the SOS

would have to issue a restricted license to a person whose license was suspended or restricted, or revoked or denied, based on either of the following:

- Two or more convictions for violating the Code's prohibition against operating while intoxicated or operating while impaired or a substantially corresponding local ordinance.
- One conviction for violating those prohibitions or a substantially corresponding local ordinance, preceded by at least one conviction for violating a local ordinance or law of another state or the United States substantially corresponding to the Code's prohibition against operating while impaired or intoxicated or the prohibition against a person younger than 21 operating a vehicle with any bodily alcohol content.

A restricted license could not be issued unless all of the following conditions were met:

- The person was otherwise eligible (as described below).
- The person's license was suspended, restricted, or revoked and denied for at least 45 days.
- A judge assigned to a DWI/sobriety court certified to the SOS that the individual had been admitted into a DWI/sobriety court, and an ignition interlock device approved, certified, and installed as required by the Code had been installed on each motor vehicle the person owned and/or operated.
- The person submitted to the SOS proof that the ignition interlock device had been installed.

A person would be otherwise eligible unless his or her license was suspended or revoked or the person was denied a license for failing to pay child support or for medical unfitness.

A restricted license would permit the person to operate only the vehicle equipped with an ignition interlock device, to take any driving skills test required by the SOS, and to drive to and from any combination of the following locations: the person's residence, workplace, school, or court-ordered alcohol or drug education or treatment program.

Except as otherwise provided, a restricted license would be effective until a hearing officer ordered an unrestricted license under the Code. The person could not be considered for an unrestricted license until the latter of the following events occurred:

- The court notified the SOS that the person had successfully completed the DWI/sobriety court program.
- The minimum period of license sanction that would have been imposed under the Code but for the bill had been completed.

If the Secretary of State received notification from the DWI/sobriety court that the court had ordered a participant to be removed from the pilot program, or that the court was aware that a participant operated a motor vehicle not equipped with an interlock device or tampered with, circumvented, or removed an interlock device, the SOS would have to impose summarily a suspension or revocation and denial, as applicable, for the full length of time provided under the Code. If a license were suspended, a restricted license could not be issued as provided under Section 319(8) (which requires the Secretary of State to suspend a license for drunk driving convictions and authorizes the SOS to issue a restricted license during a suspension period). If a revocation and denial were imposed, the minimum period would have to be the same as if proposed Section 304 did not apply. These provisions would apply if the underlying conviction or convictions would have otherwise subjected the person to a license sanction under Section 319(8) or caused a license revocation and denial.

After the person completed the DWI/sobriety court program, the restricted license would have to be suspended or revoked or denied if any of the following events occurred, unless it was set aside:

- The person operated a motor vehicle without an ignition interlock device that met the criteria prescribed in the bill.
- The person removed, or caused to be removed, an ignition interlock device from a vehicle he or she owned or operated unless the SOS had authorized its removal.
- The person was arrested for operating under the influence of alcohol.

All driver responsibility fees required to be assessed by the Secretary of State under Section 732a of the Code would have to be held in abeyance while the participant had a restricted license and was participating in the DWI/sobriety court pilot project. At the end of the person's participation in the project, the driver responsibility fees would have to be assessed and paid pursuant to the payment schedule in Section 732a. (Section 732a requires the assessment of driver responsibility fees for certain moving violations.)

If an individual remained in good standing with the DWI/sobriety court pilot project, satisfactorily completed the court program, and did not subsequently violate a State law for which vehicle immobilization or forfeiture was a sanction, his or her vehicle that otherwise would be subject to immobilization or forfeiture under the Code would be exempt from both of those sanctions.

Under the Code, the court may order vehicle immobilization for up to 180 days for certain drunk driving convictions when the person has no prior convictions, and must order vehicle immobilization for other periods for a person convicted of drunk driving resulting in death or serious impairment and for repeat drunk driving offenders. Under the bill, vehicle immobilization would be subject to the provision described above.

MCL 257.303 et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The Department of State has indicated there would be some costs associated with programming, manual tracking of people in the proposed pilot project, and review of compliance with the requirements associated with interlock devices. The amount of these costs is indeterminate and would depend on the number of participants who enrolled in the pilot project. In addition, the Department does not track the number of multiple-time offenders; thus, it is unknown how much of the driver responsibility fees would be held in abeyance as prescribed by the bill.

Fiscal Analyst: Joe Carrasco

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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.