

## DWI/SOBRIETY COURT INTERLOCK PILOT PROJECT

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**House Bill 5273 as introduced**  
**Sponsor: Rep. Marc Corriveau**

**House Bill 5274 with committee amendment**  
**Sponsor: Rep. Ellen Cogen Lipton**  
**Committee: Judiciary**

**Complete to 12-17-09**

### **A SUMMARY OF HOUSE BILLS 5273 & 5274 AS REPORTED FROM COMMITTEE**

The bill would create a three-year pilot project that would enable a person convicted of certain drunk driving offenses to obtain a restricted driver license by fulfilling conditions specified in the bill, such as admittance into a sobriety court and installation of an ignition interlock device on each vehicle the driver owned or operated. The bills are tie-barred to each other, meaning that neither bill could take effect unless both were enacted.

Under provisions of the Michigan Vehicle Code, the secretary of state is required to suspend or revoke a driver license for various traffic violations, including drunk driving. In addition, a person convicted of drunk or drugged driving faces sanctions that may include incarceration, community service, fines, restitution, and treatment for substance abuse.

In recent years, there has been a national trend to establish DWI or Sobriety Courts as a way to reduce recidivism for persons convicted of drunk driving. Similar to drug courts, Sobriety Courts typically involve misdemeanor cases and provide offenders with extensive supervision and treatment programs. DWI courts follow the Ten Key Components of Drug Courts and The Guiding Principles of DWI Courts as established by the National Center for DWI Courts (NCDC). The principles include performing a clinical assessment to determine the offender's needs, development of a treatment plan, increased supervision and court monitoring, program evaluation, and ensuring a sustainable program. Michigan has at least 26 such courts.

#### **House Bill 5273**

The bill would add a new section to the Revised Judicature Act (MCL 600.1084) to create a DWI/Sobriety Court Interlock Pilot Project, beginning on October 31, 2010, and continuing for three years. Participating DWI/Sobriety Courts would have to comply with the 10 Guiding Principles of DWI Courts as promulgated by the National Association of Drug Court Professionals.

Only persons convicted of two or more violations of Section 625(1) or (3) of the Michigan Vehicle Code [operating while intoxicated (OWI) or while visibly impaired, respectively] would be considered for placement in the pilot project. The bill also would:

- Require participating DWI/Sobriety Courts to provide documentation to the Legislature, secretary of state (SOS), and the state supreme court regarding compliance with court-ordered conditions. The documentation would have to provide, among other things, the percentage of participants ordered to place an interlock device on their vehicles; the percentage who removed those devices without court approval; the percentage who tampered with the devices or operated a vehicle without a device; and the percentage convicted of a new OWI or while-visibly- impaired offense.
- Prior to SOS granting a restricted license under provisions of House Bill 5274, require the DWI/Sobriety Court judge to certify that the person was a participant in the DWI/Sobriety Court and had had an interlock ignition device installed on each vehicle he or she owned or operated.
- Require the judge to immediately inform the SOS if a participant is terminated from the program, operated a vehicle without a device installed, or charged with a new OWI or visibly-impaired violation and require the SOS to revoke or suspend the restricted license, as applicable.

"DWI/Sobriety Courts" would mean the specialized court programs established within judicial circuits and districts throughout the state that are designed to reduce recidivism among alcohol offenders and that comply with the 10 Guiding Principles of DWI courts as promulgated by the National Association of Drug Court Professionals.

#### **House Bill 5274**

The bill would amend the Michigan Vehicle Code (MCL 257.303 et al.) Currently, the SOS is required to suspend or revoke a person's driver license for numerous traffic offenses and deny issuance of a license until certain conditions are met. When a person has two drunk driving convictions within seven years or three within ten years, the license must be revoked and a full or restricted license cannot be issued for at least one year (five years if the person's license had already been revoked within the preceding seven years).

House Bill 5274 would add a new provision requiring the SOS to issue a restricted license after 45 days to an individual whose license was suspended or revoked for two or more OWI or visibly impaired violations. However, a judge would first have to certify to the SOS that the person was participating in the DWI/Sobriety Court Interlock Pilot Project and that the person had been admitted into a DWI/Sobriety Court, and an approved, certified ignition interlock device had been installed on each car owned or operated by the person. The judge would have discretion to select the installer from an SOS approved list of ignition interlock providers.

The restricted license would only allow the person to drive to work, school, or an alcohol treatment program and only allow operation of a vehicle equipped with an ignition interlock device. The device could not be removed until a hearing officer or DWI/Sobriety Court ordered its removal.

Following completion of the pilot program, the restricted license would be revoked if the person operated a vehicle without a device, removed the device, or arrested for an OWI or visibly impaired violation.

All driver responsibility fees required to be assessed by the SOS for an OWI or visibly impaired violation would be held in abeyance (not have to be paid back) during the time the person had a restricted license under the bill. At the end of the person's participation in the DWI/Sobriety Court Program, the fees would have to be assessed and paid according to the payment schedule in the vehicle code.

The vehicle immobilization and forfeiture provisions would not apply to the vehicle of a DWI/Sobriety Court pilot project participant who remained in good standing with the project and successfully completed the DWI/Sobriety Court program.

Lastly, the bill would amend numerous provisions amended by Public Act 463 of 2008 to clarify that those provisions do not take effect until October 31, 2010.

## **BACKGROUND INFORMATION:**

Ignition interlock devices prevent a vehicle from starting if the operator has a bodily alcohol content (BAC) greater than 0.025 and are an effective measure to reduce repeat drunken driving incidents. Because studies support the contention that ignition interlock devices significantly reduce traffic fatalities caused by repeat offenders (by some estimates, up to a 75 percent reduction in DUW arrests), over 40 states have adopted legislation to increase the use of the devices. In Michigan, despite the research, judges do not order the devices in all situations they could. In addition, of those ordered to install an ignition interlock device, only about 20 percent comply. Most of the serious injuries and deaths associated with drunk driving incidents are caused by repeat offenders, many of whom are driving on suspended or revoked licenses.

The bills would address the problem by creating a DWI/Sobriety Court Interlock Pilot Project under which participants would not only get appropriate treatment for their alcohol addiction, but also could receive a restricted license earlier (45 days instead of one year for two DWIs in seven years) by installing an ignition interlock device on each car they own or drive and complying with all of the bills' requirements. The rationale behind the bills is simple – unless the underlying addiction is successfully treated, drunk drivers continue to drive while under the influence, regardless of whether or not they have a valid driver's license. Sobriety courts do just that – treat alcohol addiction through appropriate therapies and close judicial supervision. Allowing participants to receive a restricted license earlier than currently allowed will provide an incentive for participation in and compliance with the pilot program and enable participants to get to court, therapy appointments, and work or school – all of which are also known to positively impact sobriety and reduce recidivism. At the end of the three-year pilot program, the DWI/Sobriety Court Program could be expanded statewide if the data supports that the program is working to increase the public's safety.

## **FISCAL IMPACT:**

House Bill 5273 would have an indeterminate fiscal impact on the Judiciary. There would likely be increased administrative costs associated with more individuals participating in a DWI/Sobriety Court program. Costs would come from processing and monitoring participants. Moreover, local courts would be required to produce documentation (i.e. data reports) on the court's participants, which would also increase administrative costs for the local courts. However, it is unknown what percentage of those cost increases would be offset by fees and costs charged to program participants. The Secretary of State may realize negligible costs associated with processing restricted licenses for participants.

## **POSITIONS:**

A representative of the Office of Secretary of State testified in support of the bills (with amendments). (10-14-09)

The Century Council, a not-for-profit organization funded by leading distillers that develops and implements programs to fight drunk driving and underage drinking, supports the bills. (10-14-09)

A representative of the Michigan Association of Drug Court Professionals testified in support of the bills. (10-14-09)

A representative of MADD testified in support of the bills. (10-14-09)

The Michigan Sheriffs Association indicated support for the bills. (10-14-09)

The Michigan Licensed Beverage Association indicated support for the bills. (10-14-09)

The Prosecuting Attorneys Association of Michigan (PAAM) indicated support for the bills. (10-14-09)

The Distilled Spirits Council of the United States indicated support for the bills. (10-14-09)

The Department of State Police is neutral on the bills. (10-14-09)

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■ 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.