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BILL ANALYSIS



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Senate Bill 809 (as introduced 11-9-11)
Sponsor: Senator Tonya Schuitmaker
Committee: Judiciary

Date Completed: 5-15-12

CONTENT

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

- **Prohibit a Secretary of State (SOS) hearing officer from issuing an unrestricted license to a person who received a restricted license following drunk driving violations, until the person met all requirements for a driver license (or other conditions were met).**
- **Require the SOS to postpone considering issuance of an unrestricted license to a person who completed a sobriety court program, for three months for each "minor violation" during an ignition interlock monitoring period.**
- **Require a restricted license to be suspended, revoked, or denied if the person who was issued the license, with a requirement for an ignition interlock device, committed a "major violation".**
- **Require a mandatory 120-day license suspension period to be served consecutively to a 60-day suspension period imposed for two serious traffic violations within 36 months, and revise the definition of "serious traffic violation".**
- **Delete a requirement of a one- or three-year license suspension for a six-point violation while operating a commercial motor vehicle.**
- **Increase the length of a license suspension for operating a commercial vehicle during certain out-of-service periods.**

Restricted License

Except as otherwise provided, the Vehicle Code requires the SOS to issue a restricted license to a person whose license was suspended, restricted, revoked, or denied based on multiple convictions for operating a vehicle while intoxicated or while visibly impaired due to the consumption of alcohol and/or a controlled substance. A restricted license is effective until a hearing officer orders an unrestricted license, which the hearing officer may not order until the later of the following events:

- The court notifies the SOS that the person has successfully completed the DWI/sobriety court program.
- The minimum period of license sanction that would have been imposed, but for the requirement of issuing a restricted license, has been completed.

Under the bill, an unrestricted license could not be issued until either of those events occurred or the person satisfied the requirements of Section 303 of the Code, whichever was latest. (That section deals with the prohibited issuance, revocation, or denial of a license for various reasons, and lists criteria for the issuance of a license to a person whose license was revoked.)

The bill would require the SOS, after a person completed the DWI/sobriety court interlock pilot program, to postpone considering the issuance of an unrestricted license for a period of three months for each act that would be a minor violation as defined in R 257.301a of the Michigan Administrative Code if the person's license had been issued under Section 322(6). ("Minor violation" means either of the following during a monitoring period if the ignition interlock device is a requirement of a restricted license:

- Three start-up failures, after the device has been installed for at least two months.
- The person's failure to report to the device manufacturer, installer, or service provider for monitoring within seven days after his or her scheduled service date.

Section 322(6) pertains to the issuance of a restricted license to a person whose license has been denied or revoked under specified sections of the Code. Those sections involve multiple convictions within seven or 10 years for certain alcohol-related driving violations, or one conviction for another specified offense, including reckless driving or driving with a suspended or revoked license and causing death or serious impairment of a body function, fleeing and eluding, and leaving the scene of an accident. If a restricted license is issued to a person under Section 322(6), he or she is required to install an ignition interlock device on each vehicle the person owns or intends to operate.)

After a person who has been issued a restricted license for multiple convictions of operating a vehicle while intoxicated or operating a vehicle while impaired completes a DWI/sobriety court interlock pilot program, the restricted license must be suspended, revoked, or denied unless set aside under the Vehicle Code, if any of the following occurs:

- The person operates a motor vehicle without an ignition interlock device that meets criteria specified in the Code.
- The person removes an ignition interlock device from a vehicle he or she owns or operates, or causes it to be removed, unless the SOS has authorized its removal.
- The person is arrested for operating while intoxicated or impaired.

The bill also would require a restricted license to be suspended, revoked, or denied if the person committed any other act that would be a major violation if his or her license had been issued under Section 322(6). "Major violation" would mean that term as defined under R 257.301a. (That rule defines "major violation" as any of the following during a monitoring period if an ignition interlock device is a requirement of a restricted license:

- A rolling retest violation.
- Issuance of a permit to a person whose license is confiscated for refusing a chemical test of his or her blood, breath, or urine.
- Conviction of an ignition interlock requirement violation.
- Indication that the ignition interlock device has been tampered with or circumvented, or that there was an attempt to do so.
- Three minor violations (as described above).
- Unauthorized removal of an ignition interlock device from a vehicle, unless the device is installed within seven days after removal in any vehicle owned or operated by a person whose license is restricted.
- Operation of any motor vehicle without a properly installed and functioning ignition interlock device.)

Suspension Periods

The Vehicle Code requires the Secretary of State immediately to suspend or revoke all vehicle group designations on a person's driver license upon receiving notice of certain violations, or receiving a notice that a person has refused to submit to a chemical test of his or her blood, breath, or urine to determine the amount of alcohol and/or the presence of a

controlled substance while the person was driving. The suspension must be for 60 days for certain violations or repeat violations, and for 120 days for certain other violations or repeat violations.

The bill would require the 120-day suspension to be served consecutively to a 60-day suspension imposed for two serious traffic violations arising from separate incidents within 36 months. (The Code defines "serious traffic violation" as any of the following:

- A traffic violation that occurs in connection with an accident in which a person died.
- Careless driving.
- Excessive speeding (as defined by the U.S. Secretary of Transportation).
- Improper lane use.
- Following too closely.
- Operating a commercial motor vehicle (CMV) without obtaining any vehicle group designation.
- Operating a CMV without either possessing a driver license or providing proof to the court that the person held a valid vehicle group designation and indorsement on the date of the citation.
- Operating a CMV while in possession of a driver license that has a vehicle group designation but does not have the appropriate vehicle group designation or indorsement required for the specific vehicle group being operated or the passengers or type of cargo being transported.

The bill would refer to reckless driving, rather than careless driving, in that definition. It also would include reading, typing, or sending a text message while driving.

In addition, the Code lists violations that require a one-year suspension and lists other violations that require a three-year suspension. The bill would remove from each of those lists a 6-point violation while operating a commercial motor vehicle.

Also, the Code requires the Secretary of State immediately to suspend all vehicle group designations on a person's driver license upon receiving notice of certain violations of a law or local ordinance of this or another state, the United States, Canada, or Mexico. The suspension must be for 90 days if the person is convicted of or found responsible for operating a CMV during a 24-hour out-of-service period or in violation of an out-of-service order. The bill would increase that suspension period to 180 days.

Currently, the suspension period for an out-of-service violation described above must be one year if the person is convicted of or found responsible for two out-of-service violations arising from two or more separate incidents during a 10-year period. The bill would increase that suspension period to two years.

MCL 257.304 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

According to the Department of State, there would be little to no additional costs related to the implementation of this bill. Any unforeseen costs would be minimal and would be absorbed within the Department's current annual budget.

The bill would have no fiscal impact on local government.

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.