



Senate Fiscal Agency  
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## BILL ANALYSIS



Telephone: (517) 373-5383  
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House Bill 5846 (Substitute H-1 as passed by the House)  
House Bills 5847 and 5849 (as passed by the House)  
House Bill 5850 (Substitute H-1 as passed by the House)  
House Bills 5851, 5852, and 6235 (as passed by the House)  
Sponsor: Representative Bronna Kahle (H.B. 5846)  
Representative Luke Meerman (H.B. 5847)  
Representative Mike Mueller (H.B. 5849)  
Representative Rebekah Warren (H.B. 5850)  
Representative Tenisha Yancey (H.B. 5851)  
Representative Lori M. Stone (H.B. 5852)  
Representative Cynthia Neeley (H.B. 6235)

House Committee: Judiciary

Senate Committee: Judiciary and Public Safety

Date Completed: 10-7-20

**CONTENT**

**House Bill 5846 (H-1) would amend the Michigan Vehicle Code to delete certain provisions that require or allow the Secretary of State (SOS) to suspend, revoke, restrict, deny, or refuse to renew a person's driver license for various violations of the Code or other acts.**

**The bill also would repeal Section 319e of the Code, which generally requires the SOS to suspend an individual's license after receiving an abstract of conviction for certain drug-related offenses under the Public Health Code, and Section 321c of the Vehicle Code, which requires license suspension for failing to pay child support or comply with a parenting time order under the Support and Parenting Time Enforcement Act.**

**House Bill 5847 would amend the Michigan Liquor Control Code to would amend the Michigan Liquor Control Code to delete certain provisions allowing license suspensions for selling or furnishing alcohol to a minor or for a minor purchasing or possessing alcohol.**

**House Bills 5849 would amend the Revised Judicature Act (RJA) to delete citations to the Michigan Compiled Laws sections that House Bill 5846 (H-1) would delete.**

**House Bill 5850 (H-1) would amend the Support and Parenting Time Enforcement Act to modify the circumstances under which a payer's license may be suspended in a Friend of the Court case.**

**House Bill 5851 would amend Article 7 (Controlled Substances) the Public Health Code to delete certain provisions imposing license suspensions for certain drug-related convictions under that the Code**

**House Bill 5852 would amend the Code of Criminal Procedure to delete a provision requiring courts to impose license sanctions required under provisions of the Public Health Code that House Bill 5851 would delete.**

**House Bill 6235 would amend the RJA to delete certain provisions prohibiting the SOS from issuing or renewing a driver license to a defendant who failed to appear in response to a citation for a State civil infraction.**

House Bills 5847, 5849, and 6235 are tie-barred to House Bill 5846. House Bill 5852 is tie-barred to House Bill 5851.

House Bill 5851 would not take effect unless both of the following occurred:

- The Senate concurrent resolution or House concurrent resolution expressing their opposition to the enactment or enforcement of the Federal mandate in accordance with 23 USC 159 was approved on a record roll call vote by a majority of the members elected and serving in each house of the Legislature.
- The Governor submitted a certification to the US Secretary of Transportation stating that he or she was opposed to the enactment or enforcement of a law requiring driver license suspension for drug offenses and both house of the Legislature had adopted a concurrent resolution expressing their opposition to the enactment or enforcement of the Federal mandate in accordance with 23 USC 159.

The bills, except House Bill 5849, are described in greater detail below.

### **House Bill 5846 (H-1)**

#### Record Destruction

Under Section 208 of the Vehicle Code, the SOS may destroy any Department of State records maintained on file for seven years, including information maintained in the central file.

The SOS may destroy a record of receipt of the notice provided for in Section 321a(7) of the Code after the court involved informed the SOS that all outstanding matters had been resolved. The bill would delete this provision.

#### License Denial & Suspension

The Code prohibits the SOS from issuing a license under the Code to certain specified individuals, including a person who has been convicted of or received a juvenile disposition for committing a crime described in Section 319e. A person must be denied a license for the length of time that corresponds to the period of the licensing sanction that would have been imposed under Section 319e if the person had been licensed at the time of the violation. The bill would delete these provisions.

The SOS may deny issuance of an operator's license as follows:

- Until the age of 17, to a person not licensed under the Code who was convicted of or received juvenile disposition for violating or attempting to violate Section 411a(2) of the Michigan Penal Code involving a school when he or she was less than 14 years of age;

and a person not issued a license under this provision is not eligible to begin graduated licensing training until he or she reaches 16 years of age.

- To a person less than 21 years of age not licensed under the Vehicle Code who was convicted of or received juvenile disposition for violating or attempting to violate Section 411a(2) of the Penal Code involving a school when he or she was 14 years of age or older, until three years after the date of the conviction or juvenile disposition; and a person not issued a licensed under this provision is not eligible to begin graduated licensing training or otherwise obtain an original driver license until three years after the date of the conviction or juvenile disposition.

The bill would delete these provisions.

#### Operation of a Motor Vehicle by a Nonresident

Under Section 317 of the Vehicle Code, the SOS, after receiving a record of a nonresident in the State who fails to answer a citation or a notice to appear in court for a violation reportable to the SOS, must notify the motor vehicle administration or other appropriate State officer where the nonresident is licensed of that violation. The notification must be given within six months after the date the citation was issued to the nonresident. This provision does not apply unless the Governor has entered into an interstate compact requiring the notification described above. The SOS may share only the information described in these provisions to verify driving privileges or licensure status, to report a conviction or withdrawal, or to ensure compliance with Federal regulations.

The bill would delete these provisions.

#### License Suspension for Committing a Crime

Section 319 of the Code requires the SOS to suspend an individual's license for one year for a violation of Section 1 of former Public Act 214 (PA) of 1931 and of former Section 626c of the Code. (Public Act 214, which related to felonious driving, was repealed by PA 134 of 2001. Section 626c of the Code, which prescribed a felony for operating a motor vehicle resulting in serious impairment of a body function, was repealed by PA 463 of 2008.) The bill would delete this provision.

Section 319 also requires the SOS to suspend an individual's license for 90 days for certain crimes, including a violation of Section 703(2) of the Michigan Liquor Control Code, which prohibits a person from furnishing fraudulent identification to a minor and prohibits a minor from uses fraudulent identification from purchasing alcoholic liquor. The bill would delete this provision.

Under the Code, for a violation of Section 703(1) of the Liquor Control Code, which prohibits the possession, purchase, or consumption of alcoholic liquor by a minor, the SOS must suspend the individual's license as prescribed in the Code. The bill would delete this provision.

The Code specifies that, for a violation or attempted violation of Section 411a(2) of the Michigan Penal Code involving a school, the SOS must suspend the license of a person 14 to 21 years of age until three years after the date of the conviction or juvenile disposition for the violation. The SOS may issue the person a restricted license after the first 365 days of suspension. The bill would delete this provision.

Under the Code, for a second or subsequent violation of Section 701(1) of the Liquor Control Code by an individual who is not a retail licensee or a retail licensee's clerk, agent, or employee, the SOS must suspend the person's license for 180 days. The SOS may issue a

person a restricted license during all or a specified portion of the suspension. The bill would delete this provision.

#### Receipt of Abstract of Conviction

Under Section 319e of the Code, after receiving an abstract of conviction for a person for an attempt to violate, a conspiracy to violate, or a violation of Part 74 (Offenses and Penalties) or Section 17766a of the Public Health Code or of a local ordinance that prohibits conduct prohibited under Part 74 or Section 17766a, the SOS immediately must suspend the license of the person for the period specified in the abstract of conviction. (Section 17766a of the Public Health Code is a repealed section that pertained to the use, possession, or delivery of an androgenic anabolic steroid.)

After receiving an abstract of conviction for a person for an attempt to violate, a conspiracy to violate, or a violation of a law of another state that regulates the possession, distribution, manufacture, cultivation, sale, or transfer of a substance the possession of which is prohibited under the Controlled Substances Act; or for an attempt to violate, a conspiracy to violate, or a violation of the Controlled Substances Act, the SOS immediately must suspend the license of the person, as prescribed in Section 319e.

The SOS may waive the suspension of a person's license or grant restrictions if the person convicted of a violation described above submits proof that he or she served a term of imprisonment that exceeded one year for the violation, or submits proof of both of the following: a) that a court revoked, suspended, or restricted his or her license for a period equal to or greater than the period of a suspension for the violation or b) that the revocation, suspension, or restriction was served for the violation.

The SOS may not suspend the license of a person if he or she is sentenced to life imprisonment or a minimum term of imprisonment that exceeds one year for an attempt to violate, a conspiracy to violate, or a violation of Part 74 or Section 17766a of the Public Health Code or a law of another state that prohibits conduct prohibited under Part 74 or Section 17766a.

The bill would delete these provisions.

#### Payment of Reinstatement Fee

Section 320e of the Code requires an individual whose driver license was suspended, revoked, or restricted under certain sections of the Code to pay a \$125 license reinstatement fee to the SOS before a license is issued or returned to the individual.

A person whose driver license is suspended, revoked, or restricted pursuant to Section 319e must pay a \$125 license reinstatement fee to the SOS before a license is issued or returned to the person. Of the \$125 fee, \$95 must be allocated to the Department of State and \$30 must be deposited by the Department of Treasury in the Drug Case Information Management Fund. The bill would delete this provision.

Additionally, under the bill, beginning on the bill's effective date, the SOS would have to waive the reinstatement fee for an individual whose driver license was suspended, revoked, or restricted for reasons that were no longer eligible for the suspension, revocation, or restriction of a driver license under the Code. The SOS immediately would have to reinstate a driver license that was suspended, revoked, or restricted for reasons that were no longer eligible under the Code.

## Failure to Answer Citation or Notice to Appear

Under Section 321a of the Code, a person who fails to answer a citation, or a notice to appear in court for a certain felonies in which a motor vehicle was used reportable to the SOS, or for any matter pending, or who fails to comply with an order or judgment of the court, including, paying all fines, costs, fees, and assessments, is guilty of a misdemeanor punishable by up to 93 days' imprisonment or a maximum fine of \$100, or both. A violation of this provision or failure to answer a citation or notice to appear for a violation of Section 703 of the Liquor Control Code or a local ordinance substantially corresponding to those offenses may not be considered a violation for any purpose under Section 320a, which requires the SOS to record the date of certain convictions, civil infraction determinations, or probate court dispositions, and the number of points on a driver license for each. The bill would delete these provisions.

Additionally, under the bill, if a person were charged with, or convicted of, Section 626 (reckless driving), any driving violation under the Code that causes injury, death, or serious impairment of a body function of another individual, or a serious offense involving a motor vehicle, and the person failed to answer a citation or a notice to appear, or a notice to appear for any matter pending, or failed to comply with an order or judgment of the court, including paying all fines, costs, and crime victim rights assessments, the court immediately would have to give notice by first-class mail sent to the person's last known address that if the person failed to appear within seven days after the notice is issued, or failed to comply with the order or judgment of the court, within 14 days after the notice was issued, the SOS would have to suspend the person's driver license.

"A serious offense involving a motor vehicle" would mean a felony or misdemeanor punishable by at least 93 days in jail, during the commission of which the individual operated a motor vehicle in a manner that presented real or potential harm to a person or property and one or more of the following circumstances applied:

- The motor vehicle was used as an instrument of the offense.
- The motor vehicle was used to transport a victim of the offense.
- The motor vehicle was used to flee the scene of the offense.
- The motor vehicle was necessary for the commission of the offense.

Under Section 321a, if a person is charged with, or convicted or, a second or subsequent violation of Section 703 of the Liquor Control Code or driving with an open container containing alcoholic liquor or a local ordinance substantially corresponding to those offenses who fails to answer a citation or a notice to appear in court or fails to comply with an order or a judgment of the court issued under those sections, including paying all fines and costs, the court immediately must give notice by first-class mail sent to the person's last known address that if the person failed to appear within seven days after the notice is issued, or failed to comply with the order or judgment of the court, within 14 days after the notice was issued, the SOS must suspend the person's driver license. The bill would delete this provision.

Section 321a prohibits a court from notifying the SOS, and the SOS may not suspend the person's license, if he or she fails to appear in response to a citation issued for, or fails to comply with an order or judgment involving the parking or standing of a vehicle or a pedestrian, passenger, or bicycle violation. The bill would delete this provision.

Section 321a allows a court to notify a person who has failed to answer two or more parking violation notices or citations for violating a provision of the Code or failed to answer three or more violation notices or citations regarding illegal parking that if the person does not appear within 10 days after the notice is issued, the court will inform the SOS of the person's failure to appear. The SOS, after being informed of the failure to appear, may not issue or renew a person's license until the court informs the SOS that the person resolved all outstanding

matters regarding the notices and citations and the person has paid to the court a \$45 driver license clearance fee. The bill would delete these provisions.

Under Section 321a, within 28 days after a person fails to appear in response to a citation issued for, or fails to comply with an order or judgment involving, a State civil infraction under Section 88 of the RJA, the court must give notice by first-class mail sent to the person's last known address that if the person failed to appear within seven days after the notice is issued, or failed to comply with the order or judgment of the court, within 14 days after the notice was issued, the SOS must suspend the person's driver license. After receiving notice of the failure, the SOS may not issue or renew a person's driver license until the court informs the SOS that the person resolved all outstanding matters regarding the notices and citations and the person has paid to the court a \$45 driver license clearance fee. The bill would delete these provisions.

#### Reinstatement Fee Collection

The Code specifies that Section 819, which governs the disposition and use of revenues from increases in fees, does not apply to a reinstatement fee collected for an operator's license that is not issued or renewed under Section 8827 of the RJA. The bill would delete this provision.

#### Civil Infraction

Under Section 907, a violation of the Code, or a local ordinance substantially corresponding to a provision of the Code, that is designated a civil infraction may not be considered a lesser included offense of a criminal offense.

If a person fails to comply with an order or judgment issued under Section 907 within the time prescribed by the court, the person's driver license must be suspended under Section 321a until full compliance with that order or judgment occurs. In addition to this suspension, the court also may proceed under Section 908. (Under that section, if a defendant defaults in the payment of a civil fine, costs, or both, the court may require the defendant to show cause why the default should not be treated as in civil contempt and may issue a summons or order to appear to show cause or a bench warrant.) The bill would delete this provision.

### **House Bill 5847**

Section 701 of the Michigan Liquor Control Code prohibits a person from selling or furnishing alcohol to a minor. A person who knowingly sells or furnishes alcoholic liquor to a minor, or who fails to make diligent inquiry as to whether the individual is a minor, is guilty of a misdemeanor. A retail licensee or a retail licensee's clerk, agent, or employee who violates these provisions must be punished in the manner provided for licensees in Section 909 except that if the violation is the result of an undercover operation in which the minor received alcoholic liquor under the direction of the MSP, the MLCC, or a local police agency as part of an enforcement action, the retail licensee's clerk, agent, or employee is responsible for a State civil infraction and may be ordered to pay a maximum civil fine of \$100.

Except as otherwise provided, an individual who is not a retail licensee or a retail licensee's clerk, agent, or employee and who violates these provisions is guilty of a misdemeanor punishable by a maximum fine of \$1,000 and imprisonment for up to 60 days for a first offense, a maximum fine of \$2,500 and imprisonment for up to 90 days for a second or subsequent offense, and may be ordered to perform community service.

For a second or subsequent offense, the Secretary of State must suspend the driver license of an individual who is not a retail licensee or retail licensee's clerk, agent, or employee and

who is convicted of violating these provisions as provided in Section 319 of the Michigan Vehicle Code. The bill would delete this provision.

Section 703 of the Code prohibits the purchase, consumption, and possession of alcoholic liquor by a minor. A minor who violates this provision is responsible for a State civil infraction or is guilty of a misdemeanor as prescribed in Section 703 and is not subject to the penalties prescribed in Section 909.

An individual who furnishes fraudulent identification to a minor or a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for up to 93 days or a maximum fine of \$100, or both.

The SOS must suspend the driver license of a minor for a second or subsequent conviction for purchasing, consuming, or possessing alcoholic liquor and must suspend the license of an individual who furnishes a fraudulent identification to a minor or a minor who uses a fraudulent identification to purchase alcoholic liquor. The bill would delete this provision.

### **House Bill 5850 (H-1)**

Section 28 of the Support and Parenting Time Enforcement Act specifies that for a Friend of the Court case, a payer's occupational license, driver license, or recreational or sporting license, or any combination of licenses may be suspended if all of the following circumstances are true:

- An arrearage has accrued in an amount greater than the amount of period support payments payable for two months under the payer's support order.
- An order of income withholding is not applicable or has been unsuccessful in assuring regular payments on the support obligation and regular payments on arrearage.

Under the bill, in order for a license to be suspended, the following circumstances also would have to be true:

- The court had conducted an ability to pay assessment and determined that the payer had an ability to pay the support but was willfully not making his or her support payments.
- The Office of the Friend of the Court had exhausted all other enforcement mechanisms before seeking the suspension of a driver license.

### **House Bill 5851**

Under Section 7408a of the Public Health Code, as part of the sentence or juvenile disposition for an attempt to violate, a conspiracy to violate, or a violation of Part 74 or of a local ordinance that prohibits conduct prohibited under Part 74, a court must consider all previous convictions currently entered upon the criminal history record and Michigan driving record of the person, except those convictions which are determined by the court to be constitutionally invalid, and must impose the certain specified licensing sanctions in addition to any other penalty or sanction imposed for the violation.

The person whose driver license is ordered suspended must surrender his or her driver license to the court immediately. The court must destroy the license immediately and forward an abstract of conviction with court-ordered license sanctions to the SOS. After receiving, and pursuant to, the abstract of conviction with court-ordered license sanctions, the Secretary of state must suspend the person's license and, if ordered by the court and if the person is otherwise eligible for a license, issue to the person a restricted license stating the limited driving privileges indicated on the abstract. If the judgment is appealed to circuit court, the

court may order the SOS to stay the suspension or license restriction pending the outcome of the appeal.

A restricted license issued in compliance with an order under Section 7408a must allow the person to whom it is issued to drive under certain specified circumstances.

The court may not order the Secretary of State to issue a restricted license that would allow a person to operate a commercial motor vehicle that hauls hazardous material. Also, the court may not order the SOS to issue a restricted license unless the person states under oath, and the court finds by testimony taken in open court or by statements contained in a sworn affidavit on a form prescribed by the State Court Administrator, that certain conditions apply.

Regardless of a court order issued under Section 7408a, the Secretary of State may not issue a restricted license to a person whose license is suspended unless a restricted license is authorized and the person is otherwise eligible for a license.

While driving, the person must carry proof of his or her destination and the hours of any employment, class, or other reason for traveling and must display that proof upon a peace officer's request.

A court may not order the suspension of a person's license if he or she is sentenced to life imprisonment or to a minimum term of imprisonment that exceeds one year for an attempt to violate, a conspiracy to violate, or a violation of Part 74.

The court must do both of the following:

- Transmit a record of each order issued under Section 7408a to the Secretary of State.
- Forward to the Department of State Police, on a form or forms prescribed by the State Court Administrator, a record that specifies the penalties imposed by the court for an attempt to violate, a conspiracy to violate, or a violation of Part 74 or of a local ordinance that prohibits conduct prohibited under Part 74, including a licensing sanction ordered under Section 7408a and a term of imprisonment imposed for the offense.

Except as otherwise provided by law, a record above is a public record, and the MSP must retain the information contained in that record for not less than seven years.

The bill would delete all of the provisions described above.

The bill also would delete the definitions of "conviction", "hazardous material", "prior conviction", "probate court disposition" and "work location".

### **House Bill 5852**

Under Section 1d of the Code of Criminal Procedure, if a law of the State requires a court to deny the issuance of a license to a person, or revoke, suspend, or restrict a person's license for an violation of a criminal law the State or a local ordinance that corresponds substantially to a criminal law of the State, the court must impose the licensing sanctions as provided by law for the violation.

The licensing sanctions include the licensing sanctions required under Section 7408a of the Public Health Code. The bill would delete this provision.

### **House Bill 6235**

Under Section 8827 of the RJA, within 28 days after a defendant fails to appear in response



to a citation issued for, or fails to comply with an order or judgment involving, a State civil infraction, a court must give notice by ordinary mail, addressed to the defendant's last known address, that if the defendant fails to appear or fails to comply with the order or judgment within 14 days after the notice is issued, the court will give to the Secretary of State notice of that failure. After receiving notice of that failure, the Secretary of State may not issue or renew a driver license for the defendant until both of the following occur:

- The court informs the Secretary of State that the defendant has resolved all outstanding matters regarding each notice or citation.
- The defendant has paid to the court a \$45 driver license reinstatement fee; however, if the court determines that the defendant is not responsible for any violation for which the defendant's license was not issued or renewed, the court must waive the driver license reinstatement fee.

The bill would delete these provisions.

MCL 257.204a et al. (H.B. 5846)  
436.1701 & 436.1703 (H.B. 5847)  
600.151d (H.B. 5849)  
552.628 (H.B. 5850)  
333.7408a (H.B. 5851)  
769.1e (H.B. 5852)  
600.8827 (H.B. 6235)

Legislative Analyst: Stephen Jackson

### **FISCAL IMPACT**

The bills would have an indeterminate fiscal impact on State and local government. The elimination of certain statutory provisions could result in reduced costs for local units of government to operate county jails and probation supervision services. Additionally, the proposed changes would result in a decrease in penal fine revenue that would affect funding for local libraries, as that funding would decrease under the bill's provisions. The potential savings in county jail costs as well as the potential decreased fine revenue for local libraries are indeterminate and would depend on the decrease in the number of arrests and convictions.

House Bill 5846 would reduce revenue to the Juror Compensation Reimbursement Fund, the Transportation Economic Development Fund (TEDF), the Drunk Driving Prevention and Training Fund, the Drug Case Information Management Fund, and the General Fund because of decreased assessment of driver's license reinstatement fees and driver's license clearance fees. While the bills would not eliminate the assessment of these fees, with fewer qualifying offenses that could trigger them, those assessments would come less frequently. The amount of the reductions to each of the above-mentioned funds would depend upon the amount of reduced assessments and how dependent each of the funds were on those fees. An exact amount per fund cannot be determined.

According to the most recent "Summary of Fees Collected" document published by the SOS, reinstatement fees generated \$2.6 million in revenue in fiscal year 2018-19, which was divided into shares and distributed to the TEDF, the Drunk Driving Fund, the Secretary of State, the Drug Case Information Management Fund and the General Fund. The percentages of these distributions depend upon the statutes under which the fee is assessed. For example, an \$85 reinstatement fee under Section 321c of the Michigan Vehicle Code is deposited into the State's General Fund after SOS expenses for processing the suspension are removed. Likewise, a \$125 reinstatement fee under Section 319e of the Vehicle Code is split so that

\$30 goes to the Drug Case Information Management Fund and the remaining \$95 is returned to the Department of State. The \$45 clearance fee, on the other hand, is distributed in thirds to SOS, the Juror Compensation Reimbursement Fund, and either a county, district, or municipal general fund.

The bill package would not eliminate these fees or the revenue that goes into the above-mentioned funds but, for some of those funds, the lost revenue could be significant. The Juror Compensation Reimbursement Fund, for example, also receives \$10 for every jury demand fee that is paid to the State Treasurer via a local district or circuit court, but the bulk of its revenue, 80%, comes from license clearance fees.

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.