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FAILURE TO SHOW PROOF OF INSURANCE: REINSTATE WAIVER

House Bill 4403 as passed by the House
Second Analysis (6-26-97)

Sponsor: Rep. Ted Wallace
Committee: Judiciary

THE APPARENT PROBLEM:

Under the Michigan Vehicle Code, an owner or operator of a vehicle must have and be able to show proof that the vehicle is properly insured. If an owner or operator fails to produce a certificate of insurance or other adequate evidence that the vehicle is properly insured when asked to do so by a police officer, the owner or operator is responsible for a civil infraction. Under Michigan's no-fault system, every vehicle is required to be covered by at least the minimal level of automobile insurance. The requirement that a driver be able to show proof of insurance exists to help encourage drivers to make certain that their vehicles are properly insured and thereby to protect the general population against being injured by uninsured drivers. Thus, the requirement that a driver be able to show proof of insurance exists to catch and to punish those who do not properly insure their vehicles, not to punish insured drivers who are unable to provide proof of insurance when they are stopped. This in fact was the state of the law prior to January 9, 1996.

Public Acts 287 and 288 of 1995, enrolled Senate Bills 776 and 777, amended the vehicle code and the insurance code to create a system allowing the secretary of state to use new technologies for vehicle owners to renew their vehicle registrations. Unfortunately, the revisions enacted last session by Public Act 287 of 1995 removed the section of the vehicle code that allowed properly insured drivers to avoid punishment by submitting proof that they were in fact insured at the time they had been cited for not having proof of insurance. It has been suggested that the law should be returned to its previous state in this respect so as not to unfairly punish insured drivers.

THE CONTENT OF THE BILL:

House Bill 4403 would amend the vehicle code to allow a person who had received a citation for failure to produce proof of insurance as required by the vehicle code or a substantially similar local ordinance to avoid any fees, fine or costs that might be imposed for the infraction by providing the court with a certificate of insurance showing that the vehicle was properly insured at the time of the citation. The bill would require the

court to waive any fees, fine or costs that would have been imposed for failure to show proof of insurance and

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refrain from notifying secretary of state of the violation, if, before the appearance date on the citation, the owner or operator presented the court with his or her certificate of insurance showing that the vehicle was in fact insured at the time the citation was issued.

The bill would also specify that the provisions for failing to produce proof of insurance apply not only to violations of the vehicle code but also to violations of substantially similar local ordinances. Finally, the bill would require a \$25 fee assessed against all those who fail to show proof of insurance (instituted by Public Act 287 of 1995) to be credited to the general fund of the local funding unit or to the general fund of a city funding a municipal court. This fee would not apply to those who made a timely showing that their vehicle had been insured at the time of the infraction under the provisions of the bill listed above. In addition, a provision allowing for a fee of up to \$10 for failure to provide proof of insurance would be removed.

The bill's provisions would apply to all violations that occurred on or after July 1, 1997.

MCL 257.328 and 257.907

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill's fiscal impact would be a negligible decrease in local revenues to the extent that the revisions put in place by Public Act 287 of 1995 have been enforced by the local courts. (6-24-97)

ARGUMENTS:

For:

The current provisions of the law punish those people who have insurance in the same fashion as those who do not. The bill would make the law fairer by reinstating a provision that gives insured drivers whose only violation was not having their proof of insurance on hand when they were stopped the opportunity to prove that they had insurance and thereby avoid punishment. The purpose of

the law requiring proof of insurance is not to provide a means of punishing insured drivers, but to allow the apprehension and punishment of those who do not insure their vehicles. This bill would return the law to its previous state and punish uninsured drivers while allowing insured drivers to submit proof of their insurance and thereby avoid punishment.

Against:

The bill's provisions waive all penalties for insured drivers who have violated the law by not having proof of insurance readily available. Although it is undoubtedly true that it is a far more egregious violation to drive a vehicle without any insurance, those who are insured but are unable to prove it to a police officer when asked to do so are still responsible for a civil infraction. The law requires a driver to have proof of insurance on hand so that it may be produced upon a police officer's request, not to have it elsewhere and to send it in at a later date. As a result, insured drivers who are not able to show an officer proof of insurance are still issued a citation. It would, therefore, be more reasonable to at least maintain some degree of penalty (perhaps a small fine to cover processing costs) for insured drivers who are unable to offer proof of insurance when it is asked for, rather than allowing them to violate the law without any penalty.

POSITIONS:

The Michigan Court Administration Association supports the concept of the bill. (6-24-97)

The Department of State Police has no position on the bill. (6-24-97)

Analyst: W. Flory

■ 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.