

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 4403 (Substitute S-2 as reported)
Sponsor: Representative Ted Wallace
House Committee: Judiciary
Senate Committee: Financial Services

Date Completed: 6-24-98

RATIONALE

Under the Michigan Vehicle Code, an owner or operator of a vehicle must have motor vehicle insurance 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 automobile insurance system, every vehicle is required to be covered by at least a minimal level of insurance coverage. The requirement that a driver be able to show proof of insurance can 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. Arguably, the requirement aims to catch and punish those who do not properly insure their vehicles, not those insured drivers who are simply unable to provide proof of insurance when they are stopped.

Public Acts 287 and 288 of 1995 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. The revisions enacted under those Acts also changed the manner in which proof-of-insurance civil infractions were handled when a vehicle owner or operator later was able to show that the vehicle was insured. Previously, a court was required to waive a civil fine and costs upon receiving certification from a law enforcement officer that the defendant, before the appearance date, had produced evidence that the vehicle was insured on the date of the citation. Public Act 287 deleted that requirement. Under current law, those who are properly insured but fail to show proof of the coverage are treated the same as those who have no insurance. Some people believe,

however, that a charge of failure to show proof of insurance for a vehicle should be dismissed if the vehicle's owner or operator supplied to the court evidence that the vehicle was insured on the date of the infraction.

CONTENT

The bill would amend the Michigan Vehicle Code to require the dismissal, upon the payment of a \$25 fee, of a civil infraction case for failure to produce evidence that a motor vehicle was insured, if the person provided to the court proof that the vehicle was properly insured on the date of the violation. The bill also would delete license and vehicle registration suspension provisions that apply to a person determined responsible for a proof-of-insurance civil infraction.

Currently, it is a civil infraction for a motor vehicle owner or operator to fail to produce proof of insurance upon the request of a peace officer, or fail to have insurance for the vehicle. The bill would remove failure to have motor vehicle insurance from that provision. The bill also would refer to failure to produce proof of insurance under a local ordinance substantially corresponding to the Vehicle Code's requirement that a driver produce proof of insurance upon an officer's request.

Under the bill, if a person were determined responsible for a proof-of-insurance civil infraction and if the person submitted to the court proof that, on the date of the violation, the vehicle had the required insurance coverage, the court would have to dismiss the case upon payment of \$25, which would have to be credited to the general fund of the court's local funding unit. If the person submitted the required proof of insurance after the

appearance date, the court also could assess additional costs under Section 729 of the Code (which allows costs to be levied for expenses incurred in compelling a person's appearance). If an owner or operator were determined responsible for a proof-of-insurance civil infraction and if the person did not submit to the court proof that the vehicle had insurance on the date of the infraction, the court would have to assess a fine and costs as provided in Section 907 of the Vehicle Code. Currently, that section allows the assessment of a civil fine of up to \$100 for a civil infraction of the Code, but limits the fine to \$10 for a proof-of-insurance violation. The bill would delete that limitation.

The bill would delete provisions in the Code that allow the suspension of a person's driver's license for a proof-of-insurance civil infraction. Under those provisions, if an owner or operator of a vehicle is determined to be responsible for a civil infraction for failure to have or produce evidence of required vehicle insurance, the court in which the civil infraction determination is entered may require the person to surrender his or her driver's license unless proof of insurance is submitted to the court. If the person submits proof that the vehicle has insurance, the court must assess a fee of \$25. If the court requires the license to be surrendered, it must order the Secretary of State to suspend the license. The court immediately must destroy the license and forward to the Secretary of State an abstract of the court record. Upon receiving the abstract, the Secretary of State must suspend the person's license for 30 days or until proof of insurance is submitted to the Secretary of State, whichever is later. A person who submits proof of insurance to the Secretary of State must pay a service fee of \$25. The person may not be required to be examined or to pay a replacement license fee.

The bill also would delete a provision that requires a court to notify the Secretary of State of the vehicle registration number and the year and make of the vehicle if an owner or operator of a vehicle is determined to be responsible for a proof-of-insurance violation. Under that provision, the Secretary of State must then enter the information into its records and may not renew, transfer, or replace the vehicle's registration plate or allow the purchase of a new registration plate until the owner meets the insurance coverage requirements or unless the vehicle is transferred or sold to a person other than the owner's spouse, mother, father, sister, brother, or child.

MCL 257.328 & 257.907

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

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 giving insured drivers the opportunity to prove that they had insurance when their only violation was not having their proof of insurance on hand when they were stopped. The law requiring proof of insurance is designed not to provide a means of punishing insured drivers, but to penalize those who do not insure their vehicles. The bill would allow insured drivers to submit proof of their insurance and thereby avoid a civil infraction, as was the case before the 1995 legislation.

Supporting Argument

By providing for a civil infraction's dismissal and deleting provisions for driver's license sanctions, the bill would allow vehicle owners to avoid the problem of having a civil infraction and/or license suspension on their driving records, which could, in turn, increase their auto insurance rates.

Opposing Argument

The bill, although providing for the dismissal of a civil infraction case, would continue to require payment of a \$25 fee by a vehicle owner or operator who was in fact properly insured but could not produce proof of that coverage. Before the enactment of Public Acts 287 and 288, there apparently was no penalty for failure to show proof of insurance to a police officer if the driver could later produce evidence that the vehicle was properly covered on the date of the citation.

Response: Although driving a vehicle without any insurance is a far more egregious violation than simply failing to show proof of insurance, those who are insured but are unable to provide a certificate of insurance to a police officer when asked to do so should still be subject to an assessment. The \$25 would be a fee, which would cover court costs, not a fine. Furthermore, current law requires a court to assess a \$25 fee if a driver produces proof of insurance, and prior to Public Act 287 drivers were subject to a \$10 service fee.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would allow collection of fees for substantially corresponding local ordinances and specify that the \$25 fee would have to be credited to the general fund of the local funding unit. The bill would result in savings to the State and local units through the dismissal of cases when individuals submitted proof that they had insurance on the date of the violation.

No Statewide information regarding tickets for lack of proof of insurance is available. However, information from individual courts shows a substantial number of cases. For example, the 46th District Court reports that 2,700 tickets were issued in 1996 for failure to have proof of insurance. Approximately 55% of the people receiving those tickets subsequently provided proof of insurance.

Fiscal Analyst: B. Bowerman

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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.