

Legislative Analysis



FELONY DRUNK DRIVING: REMOVE TIME FRAME FOR COUNTING PREVIOUS CONVICTIONS

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House Bill 6009 (Substitute H-1)
Sponsor: Rep. Kevin Elsenheimer
Committee: Judiciary

Complete to 6-19-06

A SUMMARY OF HOUSE BILL 6009 AS REPORTED FROM COMMITTEE 6-14-06

Under the drunk driving and drug driving provisions of law, a person is guilty of a felony for a third or subsequent offense. A person is guilty of a third offense if he or she had two or more previous convictions of operating a vehicle while intoxicated or with any bodily content of a Schedule 1 drug or cocaine within the previous ten years. Similarly, a person would be guilty of a third offense of driving while visibly impaired (consuming alcohol, a controlled substance, or a combination of the two) if he or she had two previous convictions within the previous 10 years. As an example, if a person was convicted of driving with a bodily alcohol content (BAC) of .08 or more in 1995 and convicted again in February of 1996, and was convicted today for another violation, the violation would – for the purposes of punishment – count as a first offense because the other two convictions occurred earlier than 10 years ago.

House Bill 6009 would amend the Michigan Vehicle Code to remove the ten-year time period for driving while intoxicated or visibly impaired and instead specify that if the person had at least two prior convictions, a violation would be a third or subsequent violation regardless of the number of years that had elapsed since any prior conviction. The current penalty for operating a vehicle while intoxicated or visibly impaired would remain the same: a felony punishable by a fine of not less than \$500 or more than \$5,000 and either imprisonment under the jurisdiction of the Michigan Department of Corrections for one to five years or a combination of probation and imprisonment in the county jail for 30 days to one year, along with 60 to 180 days of community service.

The amending act would be known and could be cited as "Heidi's Law" and would take effect January 1, 2007.

(Note: A first offense of operating a vehicle while intoxicated or driving with any bodily content of a Schedule 1 drug or cocaine – or operating a vehicle while visibly impaired – is a misdemeanor punishable by community service of not more than 360 hours, imprisonment for not more than 93 days, and/or a fine between \$100 and \$500 for operating while intoxicated and no more than \$300 for operating a vehicle while visibly impaired. If the violation occurred within seven years of a prior conviction, it would be a misdemeanor and the person would have to pay a fine of not less than \$200 or more than \$1,000 and imprisonment for at least five days but not more than one year and/or 30 to 90

days of community service. For the purpose of these sanctions, the tolling of the seven- and ten-year time periods begins on the date of conviction.)

MCL 257.625

FISCAL IMPACT:

The bill's fiscal impact would depend on how it affected the number of offenders who could be charged as third-offense drunk drivers, prosecutorial charging and plea practices, and sentencing patterns.

Of the roughly 2,000 third-offense drunk driving cases sentenced in FY 2003-04, one percent had sentencing guidelines scores that called for a prison sentence, 67 percent had guidelines scores that mandated local sanctions, and the remainder had scores for which sentencing guidelines allow a sentence either to state prison or to local sanction(s). Just under 14 percent received prison sentences, while the rest received local sanctions (3.0 percent jail, 5.8 percent probation, and 77.2 percent combination jail and probation).

Costs of prison incarceration and felony probation would be borne by the state, at an average annual cost per offender of about \$30,000 for prison incarceration and \$2,000 for probation/parole supervision. Costs of jail incarceration would be borne by the county; jail costs vary across the state. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated beneficiaries of that revenue.

POSITIONS:

Mothers Against Drunk Driving indicated support for the bill. (6-14-06)

The Department of State Police indicated support for the bill. (6-14-06)

The Michigan Sheriffs Association indicated support for the bill. (6-14-06)

The Prosecuting Attorneys Association of Michigan indicated support for the bill. (6-14-06)

The Michigan Ignition Interlock Providers Association indicated support for the bill. (6-14-06)

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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.