

# Legislative Analysis

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## HIGH BAC CONVICTIONS

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### House Bill 4289

Sponsor: Rep. Bob Constan

### House Bill 4920

Sponsor: Rep. Marc Corriveau

### House Bill 4921

Sponsor: Rep. Daniel Acciavatti

Committee: Judiciary

Complete to 6-26-07

## A SUMMARY OF HOUSE BILLS 4289 AS INTRODUCED 2-20-07 AND 4920 & 4921 AS INTRODUCED 6-13-07

The bills would each amend various sections of the Michigan Vehicle Code (257.303 et al.) pertaining to repeat drunk driving offenses, license sanctions, and use of an ignition interlock device. All three would amend the act to revise the definition of "ignition interlock device" (although the definitions are similar but not identical) and to clarify that if conditions of a restricted license included installation of an ignition interlock device, that the device would have to be properly installed and functioning.

House Bills 4289 and 4920 would have the following provisions in common:

- Create a "high BAC" or "super drunk" level of operating a vehicle while intoxicated of 0.15 grams.
- Revise the time periods for license sanctions for a high BAC offense (HB 4289 and 4920) or for all drunk driving offenses (HB 4921).
- Increase the maintenance fee for an ignition interlock device (imposed on low income individuals who received a device at no charge) from \$1 per day to \$2 per day.
- Require manufacturers to comply with reporting requirements of the Secretary of State (SOS) and allow them to communicate incidents of tampering to both the SOS and the court.
- Require the SOS to convene a panel to review current technology and investigate program improvements. House Bill 4289 would have the panel convene beginning December 31, 2008 and by December 31 every fifth year thereafter, and House Bill 4920 would have a beginning date of December 31, 2009.
- Delete the definition of "serious impairment of a body function" from a section pertaining to driving on a suspended or revoked license. The term will then be

defined as it is in Section 58c of the code, which is substantially similar but includes the loss of an organ.

In addition, each bill contains provisions unique to it.

House Bill 4289 would amend the Vehicle Code to also:

- Require a license suspension of one year for a person convicted of a high BAC offense who had no other drunk driving convictions within the previous seven years; a restricted license could be granted after 45 days.
- Clarify that the initial period for the device would be at least one year and could not be removed until a hearing officer ordered the device removed.
- If a restricted license was granted for a license suspension due to a high BAC offense, the ignition interlock device could not be removed unless the person did not reach or exceed 0.025 grams for six continuous months. The person could be ordered to participate in and complete an assessment and a treatment program. Unless the person provided documentation of not reaching or exceeding 0.025 grams, the device would have to be continued, along with any treatment that had been ordered, for an additional six months.

House Bill 4920 would amend the Vehicle Code to do the following:

- For a high BAC offense with no prior convictions within the previous seven years, require a license suspension to be for at least one year or until certain requirements involving the use of an ignition interlock device were satisfied, whichever was longer. A restricted license could be issued after 45 days. A restricted license could not be issued for a high BAC offense unless the vehicle were equipped with a device. A device could not be removed until after the minimum period for the restricted license expired and the person documented that he or she had operated the vehicle in the proceeding six months without reaching or exceeding a BAC of 0.025 grams.
- Delete a provision allowing a hearing officer to continue the ignition interlock device requirement for any length of time and instead prohibit a person issued a restrictive license requiring a device not to remove or cause to remove the device unless the SOS issued an order authorizing the removal.
- Require a court to order a person to participate in and successfully complete one or more appropriate rehabilitative programs as part of the sentence for a first conviction of a high BAC offense. A person in a rehabilitative program for any drunk driving offense would not be required to successfully complete the program before driving a vehicle that had been equipped with a device on a restricted license.
- Require the SOS to issue a list of ignition interlock device manufacturers to each person issued a restrictive license that allows operation of a vehicle with a device. The SOS would have to rotate the order of the providers with each distribution.
- Specify an effective date of October 1, 2008.

House Bill 4921 would amend the Vehicle Code as follows.

Currently, the SOS must revoke a person's operator's or chauffeur's license upon repeat convictions of drunk driving. The bill would exempt repeat drunk driving convictions from mandatory license revocation requirements. Instead, the bill would require a person's license to be suspended and the vehicle equipped with an ignition interlock device as follows:

- For one prior conviction within seven years, a suspension would be the longer of two years or until certain conditions were satisfied. A device would have to be installed for at least two years.
- For two prior convictions within ten years, the longer of three years or until certain conditions were satisfied. A device would have to be installed for at least three years.
- For three or more prior convictions, the longer of five years or until certain conditions were satisfied. A device would have to be installed for at least five years.

The SOS would have to issue a restricted license, but could not do so for the first 45 days of suspension. A restricted license issued under the above provisions could only permit the person to drive a vehicle to and from the person's place of work, school, and/or alcohol treatment program. The ignition interlock device could be removed after the minimum period for the restricted license expired *if* the person provided documentation that he or she did not reach or exceed a BAC level of 0.025 during the most recent continuous months.

The bill has an effective date of October 1, 2008. However, the bill says that it could not take effect unless H.R. 1195 of the 110<sup>th</sup> Congress is also enacted.

[H.R. 1195 would amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) to, among other things, modify the repeat intoxicated driver provision to ensure the law permitted the use of ignition interlock devices.]

#### **FISCAL IMPACT:**

##### House Bill 4289:

There will be an indeterminate amount of staff and programming costs to the State for establishing new offense codes, enforcing new penalties, monitoring persons who are convicted and subsequently ordered to have their vehicles equipped with ignition interlock devices, administering orders for removal of ignition interlock devices, and convening a panel to review technology and investigate program improvements.

##### House Bill 4920:

There will be an indeterminate amount of staff and programming costs to the State for establishing new offense codes, enforcing new penalties, following new reporting

requirements, monitoring persons who are convicted and subsequently ordered to have their vehicles equipped with ignition interlock devices, administering orders for removal of ignition interlock devices, and convening a panel to review technology and investigate program improvements. Also, it is highly unlikely the Department will be able to meet the October 1, 2008 start up date requirement contained in the bill.

House Bill 4921:

There will be an indeterminate amount of staff and programming costs to the State for establishing new offense codes, enforcing new penalties, monitoring persons who are convicted and subsequently ordered to have their vehicles equipped with ignition interlock devices, and administering orders for removal of ignition interlock devices. Also, it is highly unlikely the Department will be able to meet the October 1, 2008 start up date requirement contained in the bill.

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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.