

Legislative Analysis



OWI/OUI: INCLUDE ANY INTOXICATING SUBSTANCE

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Senate Bill 353 (Substitute S-4)

Sponsor: Sen. Dave Robertson

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 12-5-12

A SUMMARY OF SENATE BILL 353 AS PASSED BY THE SENATE 11-29-12

The bill would amend the Michigan Vehicle Code to do the following:

- Include operating a vehicle while under the influence (OUI) of any intoxicating substance in the definition of "operating while intoxicated" in the drunk/drugged driving statutes.
- Prohibit a person from operating a vehicle while impaired (OWI) due to the consumption of any intoxicating substance.
- Prohibit a person from allowing a vehicle to be operated by a person who was under the influence of, or visibly impaired by the consumption of, any intoxicating substance.
- Require a jury or court to make a finding as to whether a person charged with OUI or OWI was under the influence of an intoxicating substance or a combination of alcohol, a controlled substance, or another intoxicating substance.

"Intoxicating substance" would mean any substance, preparation, or a combination of substances and preparations other than alcohol or a controlled substance, that is either of the following:

- Recognized as a drug in any of the following publications or their supplements: the official U.S. Pharmacopoeia, the official Homeopathic Pharmacopoeia of the USA, or the official national formulary.
- A substance, other than food, taken into a person's body. This would include, but not be limited to, vapors or fumes used in a manner or for a purpose for which it was not intended, and that may result in a condition of intoxication.

In addition, the bill would apply the current definition of "conviction" to the term "prior conviction," and make the provision subject to subsection (27). Subsection (27) states that if two or more convictions arose out of the same transaction, only one transaction would be used to determine if a person has a prior conviction.

The bill would take effect March 31, 2013.

MCL 257.625

FISCAL IMPACT:

To the extent that the bill results in a greater number of OUI or OWI convictions related to other intoxicating substances, it would increase costs on state and local correctional systems. The average cost of prison incarceration in a state facility is roughly \$34,000 per prisoner per year, although the marginal cost of adding new prisoners to the system is typically lower. State costs related to parole and felony probation supervision average about \$2,400 per supervised offender per year. The local costs of incarceration in a county jail vary by jurisdiction.

The bill would have an indeterminate fiscal impact on the Judiciary. To the extent that the bill increases the OUI and OWI caseload, courts could incur additional costs. Any additional penal fine revenue collected would benefit public libraries

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