



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 580 and 581 (as introduced 9-20-17)
Sponsor: Senator David Knezek
Committee: Judiciary

Date Completed: 9-25-17

CONTENT

Senate Bill 581 would amend provisions of the Michigan Vehicle Code that prohibit the use of a two-way communication device while operating a vehicle, to do the following:

- Specify that a wireless two-way communication device would include a computer, tablet device, camera, or other internet-based communication device.
- Prescribe a felony penalty for a violation of the prohibition that caused the death of another individual, and a misdemeanor penalty for a violation that caused serious impairment of a body function to another individual.

Senate Bill 580 would amend the sentencing guidelines in the Code of Criminal Procedure to include the felony proposed by Senate Bill 581 as a Class E crime against a person with a statutory maximum sentence of five years' imprisonment.

Senate Bill 580 is tie-barred to Senate Bill 581, and each bill would take effect 90 days after its enactment.

Senate Bill 581 is discussed in more detail below.

Except as otherwise provided, the Michigan Vehicle Code prohibits an individual from reading, manually typing, or sending a text message on a wireless two-way communication device that is located in his or her hand or lap, including a wireless telephone used in cellular telephone service or personal communication service, while operating a vehicle, commercial vehicle, or school bus on a State highway or street. As used in this provision, a wireless two-way communication devices does not include a global positioning or navigation system that is affixed to the motor vehicle. Under the bill, a wireless two-way communication device would include a computer, tablet device, camera, or other internet-based communication device.

An individual who violates the prohibition is responsible for a civil infraction and must be ordered to pay a civil fine of \$100 for a first violation, and \$200 for a second or subsequent violation. Under the bill, this would apply except as provided below.

An individual who violated the prohibition and caused the death of another individual would be guilty of a felony punishable by up to five years' imprisonment or a maximum fine of \$2,000, or both.

If a violation resulted in serious impairment of a body function to another person, the offender would be guilty of a misdemeanor punishable by imprisonment for up to one year or a

maximum fine of \$500, or both. ("Serious impairment of a body function" includes one or more of the following: a) loss, or loss of use of, a limb, foot, hand, finger, thumb, eye, or ear; b) loss or substantial impairment of a bodily function; c) serious visible disfigurement; d) a comatose state that lasts for more than three days; e) measurable brain or mental impairment; f) a skull or other serious bone fracture; g) subdural hemorrhage or hematoma; or h) loss of an organ.)

MCL 777.12e (S.B. 580)
257.602b (S.B. 581)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

Senate Bill 580

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge* in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Senate Bill 581

The bill could have a negative fiscal impact on the State and local government. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government would be approximately \$3,764 per prisoner per year. Any associated increase in fine revenue would increase funding to public libraries.

Fiscal Analyst: Ryan Bergan

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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.