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House Bill 4277 (Substitute H-5 as passed by the House)
House Bill 4278 (Substitute H-3 as passed by the House)
House Bill 4279 (Substitute H-3 as passed by the House)
Sponsor: Representative Mari Manoogian (H.B. 4277)
Representative Mike Mueller (H.B. 4278)
Representative Joseph N. Bellino, Jr. (H.B. 4279)
House Committee: Judiciary
Senate Committee: Judiciary and Public Safety

Date Completed: 6-15-22

CONTENT

House Bill 4277 (H-5) would amend Section 602b of the Michigan Vehicle Code to do the following:

- **Modify provisions prohibiting an individual from texting on a cell phone while operating a motor vehicle to prohibit an individual from using a mobile electronic device while operating a motor vehicle or school bus.**
- **Specify that the prohibition would not apply beginning five years after the bill's effective date.**
- **Prescribe situations under which the prohibition described above would not apply, including use of a mobile electronic device for emergency purposes.**
- **Prohibit an individual from operating a motor vehicle or school bus while accessing, reading, or posting to a social networking site.**
- **Prohibit an individual from operating a motor vehicle or school bus while viewing, recording, or transmitting a video on a mobile electronic device unless it was being used for the sole purpose of continuously recording or broadcasting video inside or outside of a motor vehicle or school bus.**
- **Modify penalties for a violation of Section 602b.**
- **Allow a court to suspend an individual's driver license for up to 90 days if he or she were responsible for three or more civil infractions under Section 602b within a three-year period.**
- **Allow a law enforcement officer enforcing Section 602b to treat a violation as the primary or sole reason for issuing a citation to a driver.**

House Bill 4278 (H-3) would amend the Code to prescribe the number of points assigned to a person's driving record for a second or subsequent violation of Section 602b.

House Bill 4279 (H-3) would amend Section 602c of the Code to do the following:

- **Increase, from \$200 to \$250, the civil fine that could be ordered for a second or subsequent offense of Section 602b.**
- **Require the Department of State Police (MSP) to submit, forty-two months after the bill's effective date, a report to the Governor and the Legislature that included specified information related to violations of Sections 602b and 602c.**

The bills are tie-barred. Each bill would take effect 180 days after its enactment.

House Bill 4277 (H-5)

Definitions

The bill would define "mobile electronic device" as any handheld or portable electronic device capable of providing wireless data or voice communication between two or more individuals or amusement, including a cellular telephone; broadband personal communication device; two-way messaging device; text messaging device; pager; electronic device that can receive or transmit text or character-based images, access or store data, or connect to the internet; personal digital assistant; laptop computer; computer tablet; stand-alone computer; portable computing device; mobile device with a touchscreen display that is designed to be worn; electronic game; equipment that is capable of playing a video, taking photographs, capturing images, or recording or transmitting video; and any similar device that is readily removable from a vehicle and is used to write, send, or read text or data or capture images or video through manual input. Mobile electronic device would not include a radio designed for the Citizens Band Service or the Amateur Radio Service of the Federal Communications Commission (FCC) or a commercial two-way radio communications device or equipment permanently installed in a motor vehicle. The term also would not include a medical device that was designed to be worn, including an insulin pump.

"Mobile telephone" would mean that term as defined in 49 CFR 390.5: a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the FCC. Under 49 CFR 390.5, the term does not include two-way or Citizens Band Radio services.

"Operate" would mean to drive or assume physical control of a motor vehicle on a public way, street, road, or highway, including operation while temporarily stationary because of traffic, road conditions, a traffic light, or a stop sign. Operate does not include a motor vehicle that is lawfully parked.

"Wireless two-way communication device" would mean a mobile telephone as that term is defined in 49 CFR 390.5.

Prohibitions

Under Section 602b of the Code, except as otherwise provided, an individual may not read, manually type, or send a text message on a wireless two-way communication device that is located in the individual's hand or lap, including a wireless telephone used in cellular telephone service or personal communication service, while operating a motor vehicle that is moving on a highway or street in the State. As used in this provision, a wireless two-way communication device does not include a global positioning or navigation system. This prohibition does not apply to a person using an on-demand automated motor vehicle network. The bill would delete these provisions

Instead, under the bill, except as otherwise provided, an individual could not use a mobile electronic device while operating a motor vehicle or school bus. This provision would not apply beginning five years after the bill's effective date.

The prohibition would not apply to any of the following situations:

- A law enforcement officer, firefighter, emergency medical technician, paramedic, operator of an authorized emergency vehicle, or similarly engaged paid or volunteer public safety first responder during the performance of that individual's official duties, or a public utility

employee or contractor acting within the scope of that individual's employment when responding to a public utility emergency.

- The use of a mobile electronic device for emergency purposes, including a text messaging device to contact a 9-1-1 system, or an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity to report to appropriate authorities a fire, traffic accident, serious road hazard, or medical or hazardous materials emergency; to report the operator of another motor vehicle who was driving in a reckless or otherwise unsafe manner or who appeared to be driving under the influence of alcohol or drugs; or to report a crime.
- The use of a global positioning or navigation system feature of a mobile electronic device if information were not entered by hand into the global positioning or navigation system feature of the mobile electronic device.
- Selecting a telephone number or name in a mobile electronic device for the purpose of making or receiving a telephone call or if an individual otherwise activated or deactivated a feature or function of a mobile electronic device.
- The use of a mobile electronic device in a voice-operated or hands-free mode if the operator of the motor vehicle did not use his or her hands to operate the device, except to activate or deactivate a feature or function of the device or the use of a mobile electronic device that was integrated into a motor vehicle and used the user interfaces that were permanently installed into the motor vehicle.

An individual could not operate a motor vehicle or school bus while accessing, reading, or posting to a social networking site. "Social networking site" would mean any web-based service that allows individuals to construct a profile within a founded system and communicate with other users of the site for social or amusement purposes.

An individual could not operate a motor vehicle or school bus while viewing, recording, or transmitting a video on a mobile electronic device. This provision would not apply to a mobile electronic device used for the sole purpose of continuously recording or broadcasting video inside or outside of a motor vehicle or school bus.

Section 602b would not apply to either of the following:

- A level 3, 4, or 5 automated driving system, as described in "J3016: Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles", April 2021 edition, published by SAE International, or an automated vehicle equipped with an automated driving system as described in this provision during testing or operation with the automated driving system engaged.
- Viewing or using in a hands-free manner a device mounted in a vehicle for displaying information related to testing or operating an automated driving system or automated technology.

Penalties

Currently, a person who violates Section 602b is responsible for a civil infraction and must pay a civil fine as follows:

- For a first violation, \$100.
- For a second or subsequent violation, \$200.

Instead, under the bill, except as otherwise provided, an individual who violated Section 602b would be responsible for a civil infraction and would have to do the following:

- For a first violation, pay a \$100 civil fine or perform 16 hours of community services, or both.

- For a second or subsequent violation, pay a \$250 civil fine or perform 24 hours of community services, or both.

If an individual were involved in an accident at the time he or she violated Section 602b, the civil fine would be double the amount described above and a law enforcement officer investigating the accident would have to indicate in an accident report that the individual was using a mobile electronic device at the time of the accident.

A court could suspend an individual's driver license for up to 90 days if he or she were responsible for three or more civil infractions under Section 602b within a three-year period.

A law enforcement officer enforcing Section 602b could treat a violation as the primary or sole reason for issuing a citation to a driver. A law enforcement officer could not search a motor vehicle or the driver or passenger in the motor vehicle solely because of a violation.

House Bill 4278 (H-3)

Section 320a of the Code prescribes the number of points to be assigned to a person's driving record for a conviction, civil infraction determination, or probate court disposition for a violation of the Code or another law pertaining to operation of a vehicle. Depending on the violation and circumstances, the number of points assigned ranges from one to six.

The bill would prescribe the following number of points for violations of Section 620b:

- For a second violation, one point.
- For a third or subsequent violation, two points.

House Bill 4279 (H-3)

Prohibition

Section 602c of the Code prohibits an individual issued a level 1 or level 2 graduated driver license from using a cellular telephone while operating a motor vehicle upon a highway or street.

This prohibition does not apply to an individual using a voice-operated system that is integrated into the motor vehicle. The bill would delete this provision. Also, under the bill, the prohibition described above would apply in addition to the requirements of Section 602b.

Setting Aside a Conviction or Civil Infraction

The Code specifies that a court may not submit, and the Secretary of State must discard and may not enter on the master driving record, an abstract for a conviction or civil infraction determination for certain violations of the Code, including a violation of Section 602b(1) or 602c. The bill would delete this provision.

Fines

Under the Section 907 of the Code, except as otherwise provided, a person found responsible or responsible "with explanation" for a civil infraction must pay certain costs ordered by a judge or district court magistrate and one or more civil fines, as applicable.

For a violation of Section 602b, the civil fine ordered may not be more than \$100 for a first offense and \$200 for a second or subsequent offense. The bill would increase, from \$200 to \$250, the civil fine for a second or subsequent offense of Section 602b.

Report

The bill would require the MSP to submit, forty-two months after the bill's effective date, a report, using available data, to the Senate Majority Leader, the Speaker of the House of Representatives, and the Governor that included all of the following information related to violations of Sections 602b and 602c:

- The number of citations given.
- The race and ethnicity of the individuals given citations.
- The number of vehicle crashes, serious injuries, and deaths caused by violations of Sections 602b or 602c.

MCL 257.602b (H.B. 4277)
257.320a (H.B. 4278)
257.602c et al. (H.B. 4279)

Legislative Analyst: Stephen P. Jackson

FISCAL IMPACT

House Bill 4277 (H-5) & House Bill 4279 (H-3)

The bills would have an indeterminate fiscal impact on State and local government. Local courts could incur additional costs as a result of increased caseloads from convictions resulting from the bill's proposed changes. Those costs, particularly administrative costs, would depend on the increase in caseloads; therefore, they are indeterminate.

The bills also would result in increased revenue for local libraries. The bills would increase the civil fine for a second offense from \$200 to \$250. Any increase in civil fine revenue would benefit local libraries, which benefit from civil fines. The amount of increased revenue would depend on the number of convictions.

The bill provides for the suspension of an individual's driver license after three or more violations in a three-year period. The Secretary of State charges a fee of \$125 to reinstate a suspended driver license. The amount of additional revenue for the Department of State would depend on the number of violations that resulted suspensions and how many those with suspended licenses eventually sought to have their driver licenses reinstated.

The Department of State Police reports that House Bill 4279 (H-3) would have a minimal fiscal impact on the MSP.

House Bill 4278 (H-3)

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bruce R. Baker
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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.