

Legislative Analysis



CIVIL INFRACTIONS FOR CERTAIN VIOLATIONS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 4141 and 4154 as introduced
Sponsor: Rep. Kyra Harris Bolden

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4142 as introduced
Sponsor: Rep. Kevin Coleman

House Bill 4144 as introduced
Sponsor: Rep. Gary Howell

House Bill 4153 as introduced
Sponsor: Rep. Mike Mueller

House Bill 4148 as introduced
Sponsor: Rep. Andrew Fink

House Bill 4155 as introduced
Sponsor: Rep. Tenisha Yancey

Committee: Judiciary
Complete to 2-23-21

SUMMARY:

The bills would amend the following acts to remove criminal penalties for certain violations of those acts and instead make those violations civil infractions:

- House Bills 4141, 4153, and 4155: Michigan Vehicle Code
- House Bill 4142: Natural Resources and Environmental Protection Act (NREPA)
- House Bill 4144: 1925 PA 289 (known as the fingerprinting law)
- House Bill 4148: Motor Carrier Fuel Tax Act
- House Bill 4154: Code of Criminal Procedure

House Bill 4141 would amend section 801e of the Michigan Vehicle Code, which among other things requires a moped certificate of registration to accompany the moped and be made available for inspection upon the demand of a law enforcement officer. Currently, a person convicted of violating the section is guilty of a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$100, or both. Under the bill, the person would be responsible for a civil infraction, for which House Bill 4153 (described below) would provide that he or she could be ordered to pay a civil fine of up to \$150. (HBs 4141 and 4153 are tie-barred to one another, which means that neither could take effect unless both were enacted.)

MCL 257.801e

House Bill 4142 would amend several sections of NREPA concerning the registration and operation of snowmobiles. Among other things, these sections require a snowmobile operator to show the certificate of registration upon demand by a peace officer, and not operate a snowmobile if the certificate of registration is lost, mutilated, or illegible. Currently, a person convicted of violating these provisions is guilty of a misdemeanor. (Under the Michigan Penal Code, a misdemeanor for which no specific penalty is prescribed is punishable by imprisonment for up to 90 days or a fine of up to \$500, or both.) Under the bill, a person violating the provisions would be responsible for a civil infraction and could be ordered to pay a civil fine of up to \$150.

NREPA also requires the operator of a snowmobile on a public highway to observe certain rules, such as observing the speed limit, traveling in single file, and riding to the far right with the flow of the highway, and requires that the operator of a snowmobile cross a public highway at a right angle after first coming to a complete stop and yielding the right-of-way to oncoming traffic. Currently, a person convicted of violating these provisions is guilty of a misdemeanor. (Under the Michigan Penal Code, a misdemeanor for which no specific penalty is prescribed is punishable by imprisonment for up to 90 days or a fine of up to \$500, or both.) Under the bill, a person violating the provisions would be responsible for a civil infraction and could be ordered to pay a civil fine of up to \$150.

MCL 324.82105 et seq.

House Bill 4144 would amend the fingerprinting law to remove a provision that excepts a first offense of driving on a license that was suspended, revoked, or denied from requirements concerning the collection of a person's biometric data upon his or her arrest for a felony or for certain misdemeanors. Since, under House Bill 4153 (described below), these violations would no longer be misdemeanors, the exception would no longer be needed, and the biometric data requirements would still not apply. (The bill is tie-barred to HB 4153, which means that it could not take effect unless HB 4153 were also enacted.)

MCL 28.243

House Bill 4148 would amend section 15 of the Motor Carrier Fuel Tax Act, which provides penalties for certain violations of that act. Currently, a person who commits a violation of the act for which a specific penalty is not given—or who makes a false statement or return, refuses or neglects to make a statement or return, or engages in business as a motor carrier without being a holder of an unrevoked license—is guilty of a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$100, or both. If the person is a licensee, the Department of Treasury must revoke his or her license. Under the bill, the person would be responsible for a civil infraction and could be ordered to pay a civil fine of \$150. The bill would still require the Department of Treasury to revoke the license of a licensee found responsible for a state civil infraction under these provisions.

MCL 207.225

House Bill 4153 would amend sections 317, 904, and 907 of the Michigan Vehicle Code.¹ Section 904 prohibits a person from doing either of the following:

- Driving on a license that was revoked, suspended, or denied or for which the person never applied.
- Knowingly allowing a vehicle the person owns to be driven by a person who is violating the above prohibition.

Currently under the act, for a first such offense, the person is guilty of a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$500, or both. For a second or subsequent such offense, the person is guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of up to \$1,000, or both.

¹ Note that these sections were amended by 2020 PA 382, which will take effect October 1, 2021. The changes made by 2020 PA 382 are not reflected in HB 4153 as introduced.

Under the bill, for a first violation, the person would be responsible for a state civil infraction and could be fined up to \$150. For a second violation, the person would be responsible for a state civil infraction and could be fined up to \$250. For a third or subsequent violation, the person would be guilty of a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$500, or both.

In addition, for a third or subsequent violation, if the vehicle was used in the commission of a crime, if the person failed to appear for a citation issued under the act, or if the person failed to pay fines and costs under the act, the secretary of state would have to cancel the person's driver license or registration certificate.

Notwithstanding the above penalties, the bill provides that a person would be guilty of a misdemeanor² punishable by imprisonment for up to 93 days or a fine of up to \$500, or both, if he or she operated a motor vehicle in violation of the above prohibitions while his or her license was suspended for any of the following reasons:

- Failure to answer a notice to appear for a criminal violation under section 321a of the code.
- Any violation of section 625 of the code (drunk driving).
- Reckless driving under section 626 of the code.
- Any driving violation that causes the death, injury, or serious impairment of the body function of another individual under the code or a local ordinance corresponding to a provision of the code.

The bill would allow a law enforcement officer, when necessary, to impound the vehicle of an individual who violates the provisions described above. Impoundment would not be necessary if the vehicle's owner, or an occupant of the vehicle with the owner's consent, were licensed, readily available, and willing to operate the vehicle.

Civil fines

Section 907 contains provisions related to civil infractions under the act, including prescribing the maximum amounts of civil fines that can be ordered for certain civil infraction violations.

The bill would add to this section the maximum civil fines for a first violation and second violation of the prohibition described above (\$150 and \$250, respectively).

The bill would also add that a civil fine under the act could not exceed \$150 for a violation of section 215, 226a, 234, 243, 244, 255, 801e, 802(9) or (10), or 904(3)(a), or \$250 for a violation of section 904(3)(b). For a violation of section 311 that is a civil infraction, the licensee could be ordered to pay a civil fine of up to \$150. Additionally, beginning October 1, 2021, a civil fine ordered under this section for a violation of section 312a(4)(a) could not exceed \$250.

(House Bill 4153 is tie-barred to HBs 4141, 4143, 4145, 4146, 4150, and 4155, and all of those bills are tie-barred to HB 4153. A bill cannot take effect unless each bill to which it is tie-barred is also enacted.)

MCL 257.317, 257.904, and 257.907

² Note that, as written, this misdemeanor would apply only to a person *operating* a vehicle. It would thus appear not to apply to a violation of section 904(2), which prohibits knowingly *allowing* one's vehicle to be operated by a person whose license is revoked, suspended, or denied.

House Bill 4154 would amend the Code of Criminal Procedure to remove a provision that excepts a first offense of driving on a license that was suspended, revoked, or denied from reporting requirements concerning offenses that are misdemeanors under the Michigan Vehicle Code. Since, under HB 4153, these violations would no longer be misdemeanors, the exception would no longer be needed, and the reporting requirements would still not apply. (House Bill 4154 is tie-barred to HB 4153, which means that it could take effect unless HB 4153 were also enacted.)

MCL 769.16a

House Bill 4155 would amend section 311 of the Michigan Vehicle Code, which prohibits a person from operating a vehicle without having his or her operator's or chauffeur's license in his or her possession. Currently, a person convicted of a violation is guilty of a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$100, or both. Under the bill, the person would be guilty of a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$300, or both. However, if the person could provide a sufficient alternative means to verify his or her identity, he or she would be responsible for a civil infraction and could be ordered to pay a civil fine of up to \$150.

The bill would require a police officer to ask a person who does not have his or her license for an alternative means to verify his or her identity, such as any of the following that the officer could use to verify the person's identity using the law enforcement information network (LEIN):

- A photograph of the driver's license.
- A receipt or photograph of a valid registration for the motor vehicle.
- Other information sufficient to verify the person's identity, such as his or her name and date of birth.

Under current law, the court must waive any fine and costs upon receiving certification by a law enforcement agency that, before the appearance date on the citation, the person produced his or her operator's or chauffeur's license and the license was valid on the date of the violation of section 311. The bill would not change this provision.

(HBs 4155 and 4153 are tie-barred to one another, which means that neither could take effect unless both were enacted.)

MCL 257.311

FISCAL IMPACT:

House Bill 4141 would have an indeterminate fiscal impact on the state and on local units of government. The bill would add a civil infraction penalty. Revenue collected from the payment of civil fines is used to support public and county law libraries. Also, under section 907(13) of the Michigan Vehicle Code, for any civil fines ordered to be paid, the judge or district court magistrate is required to order the defendant to pay a justice system assessment of \$40 for each civil infraction determination, except for parking violations. Revenue deposited into the state's Justice System Fund supports various justice-related endeavors in the judicial branch, the Departments of State Police, Corrections, Health and Human Services, and Treasury, and the

Legislative Retirement System. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of additional revenue that libraries or the state would collect cannot be made.

House Bill 4142 would have an indeterminate fiscal impact on the state and on local units of government. Currently, under section 82133 of NREPA, unless otherwise stated, a person who violates any provision within Part 821 of the act is guilty of a misdemeanor. Under House Bill 4142, a number of violations within Part 821 of the act would be reduced from misdemeanor charges to civil infractions. Reducing penalties from misdemeanors to civil infractions would impact costs to local county jails, revenue deposited into the state's Justice System Fund, and revenues used to support public and county law libraries. Costs to local county jails would be reduced. Costs of incarceration in local county jails varies by jurisdiction, so the savings to local units cannot be determined. Revenue collected from the payment of civil infraction penalties is used to support public and county law libraries, but, under section 8827(4) of the Revised Judicature Act (RJA), \$10 of the civil fine would be deposited into the state's Justice System Fund, so revenue to the state would be increased. Justice System Fund revenue supports various justice-related endeavors in the judicial branch, the Departments of State Police, Corrections, Health and Human Services, and Treasury, and the Legislative Retirement System. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of additional revenue the state would collect cannot be made.

House Bill 4144 would not have a fiscal impact on the state or on any units of local government.

House Bill 4148 would have an indeterminate fiscal impact on the state and on local units of government. The bill would reduce the penalty from the current misdemeanor charge to a civil infraction. Changing the penalty from a misdemeanor to a civil infraction would impact costs to local county jails, revenue deposited into the state's Justice System Fund, and revenue used to support public and county law libraries. Costs to local county jails would be reduced as misdemeanor convictions would be replaced with civil infraction penalties. Costs of incarceration in local county jails varies by jurisdiction, so the savings to local units cannot be determined. Revenue collected from the payment of civil infraction penalties is used to support public and county law libraries. Any increase in the amount of fine revenue received would benefit the libraries. Under section 907(13) of the Michigan Vehicle Code, for any civil fines ordered to be paid, the judge or district court magistrate is required to order the defendant to pay a justice system assessment of \$40 for each civil infraction determination, except for parking violations. Revenue deposited into the state's Justice System Fund supports various justice-related endeavors in the judicial branch, the Departments of State Police, Corrections, Health and Human Services, and Treasury, and the Legislative Retirement System. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of additional revenue the state would collect cannot be made.

House Bill 4153 would have an indeterminate fiscal impact on the state and on local units of government. Currently, a person who is convicted for driving a motor vehicle on a highway, when the privilege to drive has been suspended, revoked, or denied, is guilty of a misdemeanor for first, second, third, and subsequent violations. Under provisions of the bill, the person would be responsible for a civil infraction for first and second violations and guilty of a

misdemeanor for third and subsequent violations. Also, under the bill, new misdemeanor and civil infraction penalties would be added for a number of other offenses. Changing penalties for first- and second-time offenders from misdemeanors to civil infractions would impact costs to local county jails, revenue used to support public and county law libraries, and revenue deposited into the state's Justice System Fund. For new misdemeanor convictions, costs to local county jails and/or local misdemeanor probation supervision would be increased and could increase the amount of fine revenue received that would benefit libraries. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. For new civil infraction convictions, there would be an increase in revenue collected from the payment of penalties, which is used to support public and county law libraries. Also, under section 907(13) of the Michigan Vehicle Code, for any civil fines ordered to be paid, the judge or district court magistrate is required to order the defendant to pay a justice system assessment of \$40 for each civil infraction determination, except for parking violations. Revenue deposited into the state's Justice System Fund supports various justice-related endeavors in the judicial branch, the Departments of State Police, Corrections, Health and Human Services, and Treasury, and the Legislative Retirement System. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of additional revenue the state would collect cannot be made.

House Bill 4154 would not have a fiscal impact on the state or on any units of local government.

House Bill 4155 would have an indeterminate fiscal impact on the state and on local units of government. The bill would add a misdemeanor and a civil infraction penalty. For new misdemeanor convictions, costs to local county jails and/or local misdemeanor probation supervision would be increased and could increase the amount of fine revenue received that would benefit libraries. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. For new civil infraction convictions, there would be an increase in revenue collected from the payment of penalties, which is used to support public and county law libraries. Also, under section 907(13) of the Michigan Vehicle Code, for any civil fines ordered to be paid, the judge or district court magistrate is required to order the defendant to pay a justice system assessment of \$40 for each civil infraction determination, except for parking violations. Revenue deposited into the state's Justice System Fund supports various justice-related endeavors in the judicial branch, the Departments of State Police, Corrections, Health and Human Services, and Treasury, and the Legislative Retirement System. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of additional revenue that libraries or the state would collect cannot be made.

Legislative Analyst: Emily S. Smith
Fiscal Analysts: Robin Risko
Michael Cnossen

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.