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House Bill 5853 (Substitute H-3 as passed by the House)
Sponsor: Representative Bronna Kahle
House Committee: Judiciary
Senate Committee: Judiciary and Public Safety

Date Completed: 10-7-20

CONTENT

The bill would amend the Michigan Vehicle Code to modify the penalties and sanctions for various offenses under the Code.

The bill would take effect 90 days after its enactment.

Commercial Look-Up Service

The Code allows the Secretary of State (SOS) to provide a commercial look-up service of records maintained under the Code. A driver education provider must subscribe to the commercial look-up service.

A driver education provider must include in its contract with each client, as prescribed by the SOS, a notice that nonpersonal information related to the driving record of each individual instructor is available for review by the general public. A driver education provider who fails to include the required information is subject to a maximum fine of \$500.

A driver training school operator who fails to provide the information required to be maintained is subject to a maximum fine of \$500. Each failure to provide information constitutes a separate offense.

A limo carrier of passengers who fails to provide the information required to be maintained is subject to a maximum fine of \$500. Each failure to provide information constitutes a separate offense.

A limousine driver who fails to provide the required information is subject to a maximum fine of \$500. Each failure to provide information constitutes a separate offense.

Under the bill, the individuals described above who failed to provide the required information, instead, would be responsible for a civil infraction and would have to pay a maximum civil fine of \$100. Each failure to provide information still would constitute a separate offense.

Failure to Endorse or Deliver Certificate of Title

Under the Code, any person who fails or neglects to properly endorse and deliver a certificate of title to a transferee or owner lawfully entitled to the title is guilty of a misdemeanor. Instead, under the bill, a person who violated this provision would be responsible for a civil infraction and would have to pay a maximum civil fine of \$100.

Motorcycle Indorsement

Under the Code, a person, before operating a motorcycle, other than an autocycle, upon a public street or highway in this state, must procure a motorcycle indorsement on his or her operator's or chauffeur's license. The license must be issued, suspended, revoked, canceled, or renewed in accordance with and governed by the Code.

A person who violates this provision is guilty of a misdemeanor punishable as follows:

- For a first violation, by imprisonment for up to 90 days or a maximum fine of \$500, or both.
- For a violation that occurs after a prior conviction, by imprisonment for up to one year or a maximum fine of \$1,000, or both.

Under the bill, a person who violated the provision, instead, would be responsible for a civil infraction or guilty of a misdemeanor as follows:

- For a first violation, the individual would be responsible for a civil infraction and would have to pay a maximum civil fine of \$250.
- For a violation that occurred after one or more prior judgments, the individual would be guilty of a misdemeanor punishable by imprisonment for up to one year or a maximum fine of \$500, or both

Allowing an Unlicensed Minor to Drive

The Code prohibits an individual from causing or knowingly permitting any minor to drive a motor vehicle on a highway as an operator, unless the minor has first obtained a license to drive a motor vehicle under the provisions of Chapter 3 (Operator's and Chauffeur's License). Under the bill, an individual who violated this provision would be responsible for a civil infraction and would have to pay a maximum civil fine of \$100.

Access to a MVA Report

Under the Code, for 30 days after the date a motor vehicle accident report is filed with a law enforcement agency, a person may gain access to the report only if the person or organization files a statement indicating that from the time the person or organization is granted access to the report until 30 days after the date the report is filed, the person or organization acknowledges that the person or organization is prohibited from using the report for any direct solicitation of an individual, vehicle owner, or property owner listed in the report and disclosing any personal information contained in the report to a third party for commercial solicitation of an individual, vehicle owner, or property owner listed in the report.

A person who knowingly violates this provision is guilty of a crime punishable as follows:

- For a first violation, a misdemeanor punishable by a maximum fine of \$30,000.
- For a second or subsequent violation, a misdemeanor punishable by imprisonment for up to one year or a maximum fine of \$60,000, or both.

Instead, under the bill, a person who knowingly violated this provision would be responsible for a civil infraction and would have to pay a civil fine as follows:

- For a first violation, a maximum civil fine of \$500.
- For a second or subsequent violation, a maximum civil fine of \$1,000.

Transportation of Liquor by Minor

Section 624b of the Code prohibits a person less than 21 years of age from knowingly transporting or possessing alcoholic liquor in a motor vehicle as an operator or occupant unless the person is employed by a licensee under the Michigan Liquor Control Code, a common carrier designated by the Michigan Liquor Control Commission (MLCC), the MLCC or its agent and is transporting or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment.

Upon the filing of a complaint by a law enforcement officer, the court must issue to the vehicle's owner an order to show cause why the vehicle should not be impounded. If, after the hearing, the court determines that, at the time of the violation, the motor vehicle was being driven by the person less than 21 years of age with the owner's express or implied consent or knowledge and that the use of the motor vehicle is not needed by the owner in the direct pursuit of the owner's employment or the actual operation of the owner's business, the court may authorize the impounding of the vehicle for a period of 15 to 30 days.

A person who knowingly transfers title to a motor vehicle to avoid Section 624b is guilty of a misdemeanor. Instead, under the bill, the person would be responsible for a civil infraction and would have to pay a maximum civil fine of \$100.

Obstruction of Vision by Snow Removal

Section 677a of the Code prohibits a person from removing, or causing to be removed, snow, ice, or slush onto or across a roadway or the shoulder of the roadway in a manner that obstructs the safety vision of the driver of a motor vehicle other than off-road vehicles. A person may not deposit, or cause to be deposited, snow, ice, or slush onto or across a roadway or the shoulder of the roadway in a manner that obstructs the safety vision of the driver of a motor vehicle. Also, a person may not deposit, or cause to be deposited, snow, ice or slush on any roadway or highway.

Under the bill, a person who violated Section 677b would be responsible for a civil infraction and would have to pay a maximum civil fine of \$100.

Operating a Commercial Snow Removal Vehicle

The Code prohibits a person from operating a commercial snow removal vehicle to remove snow or ice on a public street or highway or in a parking lot accessible for use by the public unless the vehicle is operated with at least one flashing, rotating, or oscillating yellow or amber light that is clearly visible in a 360-degree arc from a distance of 500 feet when in use. A person who owns or leases a commercial snow removal vehicle may not knowingly allow a person to operate that vehicle in violation of the Code. A person who violates these provision is guilty of a misdemeanor punishable by imprisonment for up to 90 days or a maximum fine of \$500, or both.

Under the bill, a person who violated these provision, instead, would be responsible for a civil infraction and would have to pay a maximum civil fine of \$100.

Flashing, Oscillating, & Rotating Lights

Section 698 of the Code prohibits the use of flashing, oscillating, or rotating lights of any color except as otherwise provided by law or under certain specified circumstances, including an authorized emergency vehicle may be equipped with flashing, rotating, or oscillating red lights for use when responding to an emergency call if, when in use, the flashing, rotating, or

oscillating red lights are clearly visible in a 360-degree arc from a distance of 500 feet. An authorized emergency vehicle operating lights under this provision at any time other than when responding to an emergency call is guilty of a misdemeanor. The bill would delete this provision.

Section 698 also prohibits selling, loaning, or otherwise furnishing a flashing, rotating, or oscillating blue or red light designed primarily for installation on an authorized emergency vehicle to a person except a police officer, sheriff, deputy sheriff, authorized physician, volunteer or paid fire fighter, volunteer ambulance driver, licensed ambulance driver or attendant of the State, a county or municipality within the State, a person engaged in the business of operating an ambulance or wrecker service, or a Federally recognized nonprofit charitable organization that owns and operates an emergency support vehicle used exclusively for emergencies.

This provision does not prohibit an authorized emergency vehicle, equipped with flashing, rotating, or oscillating blue or red lights, from being operated by a person other than a person described in this provision if the he or she receives authorization to operate the vehicle from a police officer, sheriff, deputy sheriff, authorized physician, volunteer or paid fire fighter, volunteer ambulance driver, licensed ambulance driver or attendant, a person operating an ambulance or wrecker service, or a Federally recognized nonprofit charitable organization that owns and operates an emergency support vehicle used exclusively for emergencies, except that the authorization does not permit the person to operate lights in certain circumstances described in Section 698.

A person who operates an authorized emergency vehicle in violation of the terms of an authorization is guilty of a misdemeanor punishable by imprisonment for up to 90 days or a maximum fine of \$100, or both. The bill would delete this provision. Under the bill, instead, a person who operated a vehicle in violation of Section 698 would be responsible for a civil infraction and would have to pay a maximum civil fine of \$100.

Noise Limitations

Section 707c prohibits a motor vehicle from being operated or driven on a highway or street if the vehicle produces total noise exceeding certain limits at a distance of 50 feet except as provided in Section 707c. Section 707c also prescribes other noise limitations and prohibitions. Under the bill, a person who violated Section 707c would be responsible for a civil infraction and would have to pay a maximum civil fine of \$100.

MCL 257.208b et al.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on local units of government. The proposed elimination of jail sentences could result in reduced costs for local units of government for costs to operate county jails. The potential savings in county jail costs are indeterminate and would depend on the drop in the number of jail sentences for violations.

Fiscal Analyst: Joe Carrasco

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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.