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## DRIVING PENALTIES; HARMING EMERGENCY ASSISTANCE WORKERS

### House Bill 6177 as introduced First Analysis (12-5-00)

**Sponsor: Rep. Valde Garcia**  
**Committee: Transportation**

#### ***THE APPARENT PROBLEM:***

When police officers, firefighters and other emergency personnel stop motorists either to ticket them for violations or to give aid following an accident, their lives are in danger due to the drivers of cars and trucks who speed by in close proximity. For example, on January 25, 2000, an accident claimed the life of an on-duty police officer in Clinton county who was struck by a semi-truck and killed during a routine traffic stop on a snowy highway. In this tragic incident, an 18-year veteran of the DeWitt Township police force who was acting in much the same way as emergency workers throughout the state are accustomed to working every day, lost his life because traffic did not slow, and a driver did not see the hazard on the side of the highway in time to signal and move to another lane farther from the officer's vehicle and the vehicle he had stopped to ticket. According to committee testimony, three additional traffic stop deaths of police officers have occurred during the past year. See *BACKGROUND INFORMATION*, below.

There are four kinds of crimes which can be charged by law enforcement officials when drivers proceed without adequate caution and cause an accident on the roadside. The driver can be charged with simple negligence (and ticketed for careless driving), willful and wanton negligence (and ticketed for reckless driving), or if a death has occurred, the prosecutor can charge the driver with either negligent homicide or gross negligence in the commission of a homicide. The standard of proof for gross negligence in the commission of a homicide is very high, and according to committee testimony, prosecutors seldom have the necessary evidence to successfully bring a case proving the more serious charge. Consequently, negligent homicide is customarily charged when a death occurs, and the penalty imposed cannot exceed two years of imprisonment. However, the sentence often calls for a much shorter term of imprisonment. For example, in the case of the DeWitt Township police officer, the driver was charged with negligent homicide and

sentenced to 90 days in jail for striking the officer with her rig.

Preventing these kinds of tragedies begins with public education. New drivers and veteran motorists must be reminded to slow down and to move to safer lanes where traffic is not impeded by the stopped vehicles, whether those belonging to the accident victims or the vehicles at the scene to give assistance or promote safety. Some states, Ohio and Indiana among them, also have enacted legislation to penalize motorists who do not steer clear of the emergency personnel working at accident scenes, or police personnel who have stopped vehicles to issue tickets. Legislation to make the streets and highways safer for law enforcement personnel has also been proposed in Michigan. Specifically, House Bill 5549, would create new crimes by establishing criminal standards and penalties for drivers who drive unsafely near emergency vehicles. Further, the penalties established for the new crimes created in House Bill 5549 would be placed into the statutory sentencing guidelines under House Bill 6015. These bills are tie-barred to each other and both passed the House earlier this year.

Some in the law enforcement community have pointed out that in addition to new and stiffer penalties, a range of penalties should exist under the vehicle code, and most especially penalties for drivers who commit these crimes while driving drunk. A range of penalties would enable a sentencing judge to punish a violator under different kinds of circumstances, and would reduce the possibility that a violator would go unpunished when he or she injured or killed an emergency assistance worker.

#### ***THE CONTENT OF THE BILL:***

House Bill 6177 would amend the Michigan Vehicle Code to apply certain of the code's penalties to people who drive too close to emergency vehicles, and in

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doing so, cause the injury or death of a police officer, firefighter, or any other emergency response person in the immediate area of a stationary emergency vehicle. The policy that specifies how motorists are to drive near emergency vehicles is embodied in House Bill 5549 (S-2). In that bill the penalties for causing injury are noted in section 654(3), and the penalties for causing death are noted in section 653a(4). House Bill 6177 is tie-barred to House Bill 5549 so that it could not become law unless House Bill 5549 also were enacted. Throughout House Bill 6177 penalties for various violations under the vehicle code would be extended to violations of sections 653a(3) and 653a(4) as they are proposed by House Bill 5549.

For example, currently under the code, the secretary of state cannot issue a license to operate a vehicle in certain circumstances, including to habitual violators of criminal laws relating to the operation of a vehicle while impaired or under the influence of intoxicating liquor, a controlled substance, or a combination of the two. Under this section, the law specifies that two or three convictions within specified time periods of some laws (including reckless driving) stand as prima facie evidence that a person is a habitual violator. House Bill 6177 would add to these subsections a reference to include section 653a(4), the death of an emergency response person offering assistance. Further, the code prohibits issuing a license to a person who is an habitually reckless driver if there are two convictions for reckless driving within seven years. House Bill 6177 would extend that to specify conviction for reckless driving or a conviction under section 653a(3). In addition, the code specifies that an operator's or chauffeur's license should be revoked for two convictions of reckless driving within seven years. House Bill 6177 would extend that provision to specify a violation or attempted violation of section 653a(3). The code also specifies revocation of a license for a number of combined convictions. For example, revocation is required for two convictions of driving drunk within seven years, or a combination of one conviction for driving drunk, and one conviction for any of several other offenses. House Bill 6177 would extend the provision to specify that section 653a(4) would be one of the offenses in a combined conviction.

In addition and under the code, the secretary of state is required, within 10 days after receiving conviction records from the courts, to assess points to a motorist's driving record. The number of points for each violation is specified in the statute. House Bill 6177 would require that six points be added for violation of section 653a(3), causing injury, and section 653a(4), causing death.

Under the code a person is prohibited from driving drunk. A person, whether licensed or not, who operates a motor vehicle while under the influence of liquor and causes the death of another person is guilty of a crime and the penalties are set in the code. House Bill 6177 also would specify that if, at the time of the violation, the driver was operating a motor vehicle in the manner proscribed under section 653a, and caused the death of a police officer, firefighter, or other emergency response personnel, the person would be guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not less than \$2,500, or more than \$10,000, or both. The bill specifies that this subdivision would apply regardless of whether the person was charged with the violation of section 653a (causing injury or death). Further, the judgment of sentence could impose the sanction permitted under section 625n of the code (which concerns the forfeiture or seizure of vehicles). If the vehicle was not ordered forfeited under this section, the court would be required to order the vehicle immobilized under section 904d in the judgment of sentence.

Under House Bill 6177, the clerk of the court would be required to forward an abstract of the court record to the secretary of state whenever a person's conviction involved violation of section 654a(4).

Finally, the definition of "prior conviction" found in sections 625 and 625m would be extended to include "a violation of section 653a(4)." Further, the definition of "prior conviction" found in section 904d (concerning vehicle immobilization) would be extended to include "a violation of section 653a(3)."

MCL 257.303 et al

### **BACKGROUND INFORMATION:**

Although statistics on all law enforcement officers who have been killed in traffic stops are not available, the Department of State Police reports that since record-keeping began in 1921 to record the incidence of death among state troopers during routine traffic stops, eight troopers have lost their lives. Two troopers were shot and killed, and six were struck by the drivers of vehicles who did not reduce their speed and pull over to avoid the state trooper who was ticketing an errand driver.

### **FISCAL IMPLICATIONS:**

Fiscal information about House Bill 6177 is not available.

However, with regard to House Bill 5549, the bill to which House Bill 6177 is tie-barred, the House Fiscal Agency has previously noted that to the extent that fine revenue collections increased due to convictions under this bill, fine revenue earmarked for local libraries would increase. To the extent that individuals were sentenced to prison terms or prison terms were extended due to convictions under the bill, state and local correctional costs would increase. (5-10-00)

### ***ARGUMENTS:***

#### ***For:***

Motorists must slow down when they encounter police officers or emergency assistance personnel who have stopped their vehicles at the side of the road at the sites of accidents or routine traffic stops. Although driving defensively and safely would seem to be common sense, senseless deaths continue to occur when motorists fail to avoid hazards at the side of the highway. When drivers with these bad driving habits take a law enforcement officer's life, or kill a firefighter or other emergency services worker at an accident scene, the negligent driver should be punished by a stiff fine and long prison sentence. To ensure punishment, a judge should be able to consider a range of penalties while sentencing a violator. This legislation would increase the penalties for negligent drivers who cause the deaths of those whose job it is to make highways safer, most especially those grossly negligent drivers who are driving drunk.

#### ***POSITIONS:***

There are no positions on the bill.

Analyst: J. Hunault

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