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Senate Bill 675 (as introduced 9-26-01)  
House Bills 4596, 4597, 4813, 4924, and 4925 (as passed by the House)  
Sponsor: Senator William Van Regenmorter (Senate Bill 675)  
Representative Ruth Johnson (House Bills 4596, 4597, 4813, 4924, & 4925)  
Senate Committee: Judiciary  
House Committee: Criminal Justice (House Bills 4596, 4597, 4813, 4924, & 4925)

Date Completed: 10-3-01

## **CONTENT**

**Senate Bill 675 would amend the Code of Criminal Procedure to change the sentencing guidelines category for felonious driving, and move its location within the guidelines to reflect revisions proposed by House Bill 4596.**

**House Bills 4596 and 4597 would amend the Michigan Vehicle Code and the Code of Criminal Procedure, respectively, to repeal Public Act 214 of 1931, which provides penalties for felonious driving; re-enact and revise the felonious driving provision within the Michigan Vehicle Code, but retain the current penalties; and include the re-enacted violation within the sentencing guidelines.**

**House Bills 4813, 4924, and 4925 would amend, respectively, the Michigan Vehicle Code, the Insurance Code, and the Natural Resources and Environmental Protection Act (NREPA) to refer to felonious driving under the Vehicle Code, as proposed by House Bill 4596, rather than under Public Act 214 of 1931. House Bill 4813 also would revise a requirement that a court clerk forward to the Secretary of State an abstract of the court record upon certain convictions. House Bill 4925 also would specify or revise the periods for which the Secretary of State must order a person not to operate a snowmobile for certain violations.**

The bills would take effect on January 1, 2002. Senate Bill 675 is tie-barred to House Bill 4813. House Bills 4597, 4813, 4924, and 4925 are tie-barred to House Bill 4596.

### **Senate Bill 675**

Currently, felonious driving is a Class G felony against public safety, with a statutory maximum sentence of two years' imprisonment pursuant to Public Act 214 of 1931. Under the bill, felonious driving would be a Class G felony against a person, with a statutory maximum sentence of two years' imprisonment pursuant to the Michigan Vehicle Code, as proposed by House Bill 4596.

### **House Bill 4596**

Under the bill, a person would be guilty of felonious driving under the Michigan Vehicle Code if he or she operated a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, carelessly and heedlessly in willful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner that

endangered or was likely to endanger any person or property resulting in injury that crippled a person, but did not cause death. The violation would be punishable by up to two years' imprisonment, a maximum fine of \$1,000, or both.

The bill would repeal Public Act 214 of 1931 (MCL 752.191 & 752.192). Under that Act, the actions specified above constitute felonious driving, except that felonious driving under Public Act 214 applies only to driving a vehicle upon a highway and not to the operation of a vehicle on other places open to the general public or generally accessible to motor vehicles, including parking areas. The maximum penalties for felonious driving under Public Act 214 are the same as those proposed by House Bill 4596 under the Vehicle Code.

#### **House Bill 4597**

Currently, felonious driving is a Class G felony against public safety, with a statutory maximum sentence of two years' imprisonment, pursuant to Public Act 214 of 1931. Under the bill, felonious driving would continue to be a Class G felony against public safety, with a statutory maximum sentence of two years' imprisonment pursuant to the Michigan Vehicle Code, as proposed by House Bill 4596.

#### **House Bill 4813**

Under the Michigan Vehicle Code, the Secretary of State must suspend a person's driver's license for one year for a felonious driving violation under Public Act 214 of 1931. The bill would require the same suspension for a felonious driving violation under the Vehicle Code, as proposed by House Bill 4596.

In addition, the Code requires a court clerk to forward to the Secretary of State an abstract of the court record upon a person's conviction of certain violations. The bill would remove from that list a conviction for felonious driving or for improperly passing a stationary emergency response vehicle and causing the death of a police officer, firefighter, or other emergency response personnel.

#### **House Bill 4924**

The Insurance Code's definition of "eligible person" for automobile insurance excludes, among others, a person who, during the immediately preceding three-year period, has been convicted of, or who has been subject to a juvenile court disposition for, felonious driving under Public Act 214 of 1931. The bill would refer, instead, to a person who was convicted of or had been subject to a juvenile court disposition for felonious driving under the Michigan Vehicle Code, as proposed by House Bill 4596.

#### **House Bill 4925**

Under the NREPA, if a court has not ordered a person not to operate a snowmobile for certain violations, the Secretary of State must issue such an order. One of the violations listed in that provision is felonious driving under Public Act 214 of 1931. The bill would refer instead to felonious driving under the Michigan Vehicle Code, as proposed by House Bill 4596. Also, the NREPA does not specify the applicable period of a Secretary of State order not to operate a snowmobile for a conviction of felonious driving or of negligent homicide, auto theft, or unauthorized use of a vehicle but without intent to steal it (MCL 750.324, 750.413, & 750.414). Under the bill, an order not to operate a snowmobile for any of those violations would have to be for one year.

In addition, the NREPA requires the Secretary of State to issue an order not to operate a

snowmobile for not less than 90 days or more than one year upon receiving a record of a person's conviction of operating a snowmobile while impaired by alcohol and/or a controlled substance. Under the bill, that order would have to be for 90 days. The NREPA also requires the Secretary of State to issue an order not to operate a snowmobile for not less than six months or more than two years if a person has any of several combinations of convictions for operating a snowmobile while under the influence, or impaired. Under the bill, that order would have to be for six months.

MCL 777.12 & 777.17 (S.B. 675)  
Proposed MCL 257.626c (H.B. 4596)  
MCL 777.12 (H.B. 4597)  
257.319 & 257.732 (H.B. 4813)  
500.2103 (H.B. 4924)  
324.82147 (H.B. 4925)

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

Corrections. The bills would have an indeterminate fiscal impact on State and local government.

According to the annual statistical report from the Department of Corrections, in 1999, there were 29 convictions for felonious driving. There are no data to indicate how many more offenders would be convicted of felonious driving if the prohibition were expanded to include reckless driving in a place open to the general public or generally accessible to motor vehicles.

Under the bills, felonious driving would continue to be a Class G felony, which has a minimum sentence range of 0-3 months to 7-23 months. In most cases, offenders convicted of the Class G felony are subject to probation or incarceration in a local facility, because felonious driving has a maximum penalty of two years. The State incurs the cost of felony probation, estimated at \$4.23 per day, while local units incur the cost of incarceration, which varies between \$27 and \$62 per day. In the absence of data, if one assumed that five more offenders a year would be convicted of felonious driving and receive the longest minimum sentence, given that the annual average cost of incarceration is \$22,000, the additional annual cost to the State would be \$1.0 million.

Senate Bill 675 could have an increased fiscal impact to the extent that offenders could receive a longer sentence within the given range because felonious driving would be an offense against a person rather than an offense against public safety.

State. The enactment of these bills would likely increase the number of convictions for felonious driving, and thus the number of driver license suspensions. The reinstatement fee for a driver license is \$125 and benefits the Department of State and various drunk driving-related funds.

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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.