

ALLOW MUNICIPALITY TO ENACT ORDINANCE ON "SUPERDRUNK" DRIVING VIOLATIONS

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House Bill 4920

Sponsor: Rep. Paul Scott

House Bill 4921

Sponsor: Rep. Kurt Heise

House Bill 4923

Sponsor: Rep. Bob Constan

House Bill 4922

Sponsor: Rep. John Walsh

House Bill 4924

Sponsor: Rep. Paul Muxlow

Committee: Judiciary

Complete to 9-21-11

A SUMMARY OF HOUSE BILLS 4920-4924 AS INTRODUCED 9-8-11

The bill would authorize local governments to adopt by local ordinance a provision of the Michigan Vehicle Code pertaining to driving with a BAC (alcohol content) of .17 grams or more (sometimes referred to as "high BAC").

Currently, by charter, villages, townships, and cities may adopt by reference the Michigan Vehicle Code, but are prohibited from enforcing any provision of the code for which the maximum term of imprisonment is greater than 93 days. These bills would provide an exception for an "operating while intoxicated" offense that carries a penalty of up to 180 days' imprisonment.

House Bills 4920-4924 would amend various acts to allow local governments to adopt by reference and enforce Section 625(1)(c) of the Michigan Vehicle Code (MCL 257.625), which includes in the definition of "operating while intoxicated" a person who "has an alcohol content of 0.17 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine." The local ordinance would have to provide that a violation would be a misdemeanor punishable by one or more of the following, which is identical to the punishment provided in the vehicle code for a violation of Section 625(1)(c):

- Community service for not more than 360 hours.
- Imprisonment for not more than 180 days.
- A fine of not less than \$200 or more than \$700.

(Generally speaking, the punishment enforceable under a local ordinance is limited to a fine of \$500 or less, imprisonment for not more than 90 days, or both. Municipalities may also adopt by reference a provision of state statute in a local ordinance substantially corresponding to that statute as long as the maximum term of imprisonment for a

violation does not exceed 93 days. Municipalities may also adopt by reference in entirety certain statutes, such as laws regulating the building trades and the Michigan Vehicle Code; however, the local government may not enforce any provision of an adopted law for which the maximum term of imprisonment exceeds 93 days.)

House Bill 4920 would amend the Home Rule City Act (MCL 117.3 and 117.4i).

House Bill 4921 would amend the Charter Township Act (MCL 42.21).

House Bill 4922 would amend Public Act 246 of 1945, which pertains to township boards (MCL 41.181 and 41.184).

House Bill 4923 would amend the General Law Village Act (MCL 66.2 and 66.4).

House Bill 4924 would amend the Home Rule Village Act (MCL 78.23 and 78.24).

FISCAL IMPACT:

The bill package would not have a direct effect on state revenues. To the extent that local units of government choose to exercise this new authority under the bills, it could impact the distribution of fine revenue.

Currently, fine revenues from the state statute are distributed to libraries. Under a local ordinance, one-third of a fine would be distributed to the political subdivision whose ordinance was violated, with the remaining amount distributed to the court funding unit. Court costs, currently distributed exclusively to the court funding unit, would now have one-third of funds given to the political subdivision whose ordinance was violated, and the remaining two-thirds would be distributed to the court funding unit. The exact amount of revenue lost by libraries or gained by local governments would depend on how many districts adopt this permitted ordinance, as well as how many of these cases are prosecuted in those districts.

Local governments that adopt these ordinances may face some indeterminate costs as well, as administrative and prosecutorial procedures may vary depending on whether the court was prosecuting a state statute or local ordinance.

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