

# Legislative Analysis

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## INCREASE PENALTIES FOR CERTAIN DRUNK/DRUGGED DRIVING OFFENSES

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**House Bills 4567 and 4568**  
**Sponsor: Rep. Eileen Kowall**  
**Committee: Criminal Justice**

**Complete to 9-10-13**

### A REVISED SUMMARY OF HOUSE BILLS 4567-4568 AS INTRODUCED 4-16-13

House Bill 4567 would increase the maximum term of imprisonment for a violation of the drunk/drugged driving laws that result in the death or serious impairment of a body function of another person.

The bill would also create an enhanced penalty for a violation of causing serious impairment of a body function of another person if the driver had a prior conviction for the same offense and/or had a high BAC level (0.17 grams or more) at the time of the offense.

House Bill 4568 would place the maximum terms of imprisonment revised or added by House Bill 4567 within the sentencing guidelines.

House Bill 4567 would amend the Michigan Vehicle Code (MCL 257.625) to revise the penalties for certain violations of the drunk/drugged driving laws as follows:

#### Causing the death of another person

Michigan law prohibits the operation of a motor vehicle while intoxicated, visibly impaired, or while having any amount of a Schedule 1 controlled substance (e.g., narcotics, LSD, or marijuana). If the violation results in the death of another person, the driver is guilty of a felony punishable by a maximum term of imprisonment of 15 years and/or a fine of at least \$2,500 but not more than \$10,000. (If the victim is a police officer, firefighter, or other emergency response personnel, the maximum term of imprisonment is 20 years.)

The bill would increase the maximum term of imprisonment from 15 years to 20 years, making the penalties the same whether or not the victim is a police officer, firefighter, or emergency response personnel.

#### Causing a serious impairment of a body function

Currently, operating a motor vehicle while intoxicated, visibly impaired, or while having any amount of a Schedule 1 controlled substance that results in the serious impairment of a body function of another is a felony punishable by imprisonment for not more than five years and/or a fine of not less than \$1,000 or more than \$5,000.

The bill would increase the maximum term of imprisonment from five years to ten years. If the person had a previous conviction, regardless of the number of years that had elapsed since any prior conviction, the person would be guilty of a felony punishable by imprisonment for not more than 10 years and/or a fine of not more than \$7,500.

Further, the bill would create a high BAC (also referred to as superdrunk) penalty for this offense. If the violation occurs when the driver has an alcohol content of 0.17 grams or more, the driver would be guilty of a felony punishable by imprisonment for not more than 10 years and/or a fine of not more than \$7,500. If the person had one or more prior convictions for this offense, the maximum term of imprisonment would be increased to 20 years.

A conviction of any of the above could also result in the vehicle being subject to the code's forfeiture provisions. If the vehicle were not ordered to be forfeited, the court would have to order in the judgment of sentence the vehicle to be immobilized under Section 904d.

House Bill 4568 would amend the Code of Criminal Procedure (MCL 777.12f) to specify that operating a vehicle while intoxicated or impaired or with the presence of a controlled substance causing death would be a Class B felony (instead of Class C) against a person with a 20-year maximum term of imprisonment. Operating a vehicle while intoxicated or impaired or with a presence of a controlled substance causing death to certain persons would be a Class B felony against a person with a maximum term of imprisonment of 20 years.

Operating a vehicle with an alcohol content of 0.017 grams or more (or while intoxicated or with the presence of a controlled substance and with prior conviction) causing serious impairment would each be a Class D felony against a person with a maximum term of imprisonment of 10 years. The bill is tie-barred to House Bill 4567.

## **FISCAL IMPACT:**

To the extent the bill results in a greater number of convictions, it could increase costs on state and local correctional systems. Information is not available on the number of persons that might be convicted under these provisions. New felony convictions could result in increased costs related to state prisons, county jails, and/or state probation supervision. The average cost of prison incarceration in a state facility is roughly \$35,500 per prisoner per year, a figure that includes various fixed administrative and operational costs. The costs of local incarceration in a county jail and local probation supervision vary by jurisdiction. State costs for parole and felony probation supervision average about \$3,000 per supervised offender per year.

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