

Legislative Analysis



MOVING VIOLATIONS CAUSING DEATH OR SERIOUS INJURY

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House Bill 4314 as enrolled
Public Act 46 of 2016
Sponsor: Rep. Sam Singh
House Committee: Criminal Justice
Senate Committee: Judiciary
Complete to 8-3-16

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: Under the bill, the penalties applying for a moving violation causing serious injury or death were made to also apply to a moving violation that occurred on places open to the general public such as a parking lot.

FISCAL IMPACT: Given that the bill doesn't change existing penalties or fines, or create new penalties or fines, the bill would not have any significant new fiscal impact.

THE APPARENT PROBLEM:

A few years ago, a person driving a van in a parking lot of a big box store hit several people, severely injuring one of them. The driver was ticketed under a statute that creates misdemeanor penalties for a moving violation that causes the death of or serious injury to another person, as adopted by a local ordinance. The defendant argued, and the court agreed, that the local ordinance and the underlying state statute as then written, unlike the reckless driving statute, only applied to moving violations that occur on a state highway, not those in parking lots or other places open to the general public.

Some claimed that this was an unintended outcome of legislation meant to provide a lesser penalty than for reckless driving. (Reckless driving results in a felony for causing death or serious injury to another when operating a vehicle in a willful or wanton disregard for the safety of persons or property on a highway, frozen public lake, stream, or pond or other place open to the general public, including but not limited to a parking lot.) Legislation was proposed to extend the moving violation causing death or serious injury statute so that it will apply in the same places where reckless driving applies.

THE CONTENT OF THE BILL:

House Bill 4314 amends the Michigan Vehicle Code to specify that the penalties currently in law for a moving violation that causes the death of another person or that causes serious impairment of a body function to another person would be triggered when a person commits a moving violation *while operating a vehicle upon a highway or other place open to the general public, including, but not limited to, an area designated for the parking of motor vehicles*. The bill took effect June 13, 2016.

(Such a moving violation that causes the death of another person is a misdemeanor punishable by imprisonment for not more than one year and/or a fine of not more than \$2,000. A moving violation that causes the serious impairment of a body function of another is also a misdemeanor and is punishable by no more than 93 days in jail and/or a fine not to exceed \$500. The new language being added, italicized above, is similar to that used in the reckless driving statute.)

ARGUMENTS:

For:

The bill closes what some see as a loophole created when the old felonious driving and negligent homicide statutes were repealed several years ago and replaced with laws creating a felony penalty for reckless driving and a misdemeanor penalty for a moving violation if the violations caused death or a serious injury to a body function of another.

Unfortunately, unlike the reckless driving provision, the moving violation language did not include the list of places to which it would apply. A separate provision in the Vehicle Code (Section 601) states that unless a different place is specifically referred to in a given section, the provision refers exclusively to the operation of a vehicle upon a highway. Thus, a person who kills or maims another while operating a vehicle but whose conduct may not rise to the level of reckless driving would be guilty of a misdemeanor if the accident happened on a public road but not in a parking lot or other place open to the public. This seems like an oversight and not an intentional act by the Legislature.

The bill remedies the situation by revising the moving violation statute to more closely mirror the reckless driving statute. In this way, justice would be preserved for victims of a negligent driver regardless of where they were injured or killed.

Against:

Some may be concerned that the bill will give police expanded powers to patrol privately owned but publicly accessed areas such as parking lots.

Response:

The bill would not expand police powers. The reckless driving statute has been in place for almost five years and applies to incidents occurring on other than public roads and it has not resulted in or been interpreted to expand police powers. The bill adopts the same language that is in the reckless driving statute so that victims of irresponsible drivers don't get one level of justice if the accident happened on a public street and another if it occurred elsewhere.

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