

REVISIONS REGARDING MINOR IN POSSESSION LAW

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Senate Bill 630 (proposed substitute H-1)

Sponsor: Sen. Rick Jones

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 11-27-17

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

BRIEF SUMMARY:

The bill would revise a provision within the Michigan Vehicle Code pertaining to sanctions that may be imposed on a person who fails to answer a citation or a notice to appear in court issued for certain violations of the minor in possession (MIP) law to comport with changes to the MIP law made by Act 357 of 2016.

BACKGROUND INFORMATION:

Under Section 703 of the Michigan Liquor Control Code, known as the minor in possession (MIP) law, a person under the age of 21 is prohibited from purchasing, consuming, or possessing alcohol, attempting to purchase, consume, or possess alcohol, or from generally having any bodily alcohol content. Currently, a first violation is a misdemeanor punishable by a fine of up to \$100. In addition, a court may order community service and substance abuse screening and assessment (at the minor's own expense).

Act 357 of 2016, which will take effect January 1, 2018, amended the MIP law to, among other things, change the penalty for a first violation from a misdemeanor to a state civil infraction with a fine of up to \$100. The court may still order community service and substance abuse screening and assessment at the minor's expense. Act 357 of 2016 limited the ability of a minor to be found responsible or admit responsibility under this first-offense provision to only one time.

DETAILED SUMMARY:

Senate Bill 630 would amend provisions within the Michigan Vehicle Code pertaining to sanctions related to a violation of the minor in possession (MIP) law. Currently, if a person is charged with, or convicted of, a violation of Section 703(1) of the Michigan Liquor Control Code (Section 703 is the MIP law), or a local ordinance substantially corresponding to that section, and the person fails to answer a citation or notice to appear in court issued under the MIP law or fails to comply with an order or judgment of the court issued under the MIP law (e.g., paying all fines and costs), the court is required to immediately give notice by first-class mail that if the person fails to appear within 7 days after the notice was issued, or fails to comply with the order or judgment of the court within 14 days, the secretary of state (SOS) must suspend the person's driver's or chauffeur's license. The court must also immediately inform the SOS, who must then suspend the person's license and notify the person of the suspension by first-class mail. [The same sanctions also apply to a charge or conviction under Section 624a or 624b of the Michigan Vehicle Code (which prohibit, respectively, transporting

or possessing an open container of alcohol in a vehicle or transporting or possessing alcohol in a vehicle by a person less than 21 years of age).]

The bill would amend the provision described above to refer instead to a charge or conviction of violating Section 703(1)(b) or (c) of the Liquor Code (repeat offenses under the MIP law), rather than referring to Section 703(1)—which currently includes first as well as repeat offenses. Section 703(1)(b) contains the penalty for a second violation, and Section 703(1)(c) contains the penalty for a third or subsequent violation. (A second or subsequent violation of the MIP law will remain a misdemeanor offense after Act 357 of 2016 takes effect January 1, 2018.)

A person could still have his or her driver's or chauffeur's license suspended for failing to appear in court or complying with a court order regarding a civil infraction for a first violation of the MIP law, but the time frame and sanctions would be different. Under the bill, 28 days or more after a person failed to answer a citation or a notice to appear in court for a first-offense MIP violation, or failed to comply with a court order or judgment (including paying all fines, costs, fees, and assessments), a court would have to give notice by mail at the person's last known address that failure to appear or comply with an order or judgment within 14 days after the notice had been issued will require the court to give notice of that failure to the SOS, upon which the SOS would have to immediately suspend the person's driver's or chauffeur's license. The suspension would remain in force until the person answered the notice to appear or paid any fine or cost and paid a driver license clearance fee of \$45.

If enacted, Senate Bill 630 would take effect January 1, 2018, the same day as Act 357 of 2016.

MCL 257.321a

FISCAL IMPACT:

Senate Bill 630 reflects the revisions made by Act 357 of 2016 to the minor in possession law that changed the penalty for a first offense from a misdemeanor to a civil infraction. Misdemeanor convictions increase costs related to county jails and/or local misdemeanor probation supervision. These costs vary by jurisdiction. Revenue from criminal fines are allocated to public libraries. On the other hand, *civil infraction penalties* increase revenues going to the state Justice System Fund, which supports various justice-related endeavors in the judicial branch, and the Departments of State Police, Corrections, and Health and Human Services.

Beginning January, 1, 2018, and assuming that first-time Minor in Possession of alcohol offenses would be covered under Section 321a(9), covering civil infractions, Senate Bill 630 would result in a limited increase in revenue to the Department of State (DOS), and other departments, due to an increase in license reinstatement fee revenue and license clearance fee revenue. Data to determine the precise scope of the increase were not available for this analysis. The bill would also increase revenue to the various units described in Section 321a(11) due to the first-time MIP offense being eligible to be charged the \$45 license clearance fee.

The bill would allow an individual with a first-time MIP violation to be eligible to have his or her license suspended if the individual does not properly respond to court requirements as provided in Section 321a. The provision would result in an expected increase in the number of

driver’s license suspensions and the associated \$125 driver license reinstatement fee required to obtain a driver’s license following a suspension. The bill would revert current payment obligations back to what was required prior to Act 357 of 2016, which reduced the classification of a first-time MIP offense to a civil infraction.

Other state departments that receive revenue from driver license reinstatements are the Department of Transportation, the Judiciary, and the Michigan State Police. The distribution of revenue from a \$125 reinstatement fee is shown below.

<u>Department</u>	<u>Amount</u>	<u>Fund</u>	<u>Description</u>
Secretary of State (SOS), State	\$50	Reinstatement Fees	Supports various operations within the Secretary of State.
Transportation (MDOT)	\$35	Economic Development Fund	Funds highway, road, and street projects that support economic growth.
Judiciary	\$30	Drunk Driving Fund	Funds the drunk driving case-flow program which assists trial courts with timely disposition of drunk driving offense cases.
State Police (MSP)	\$10	Drunk Driving Prevention and Training Fund	Supports the purchase and maintenance of breath-alcohol testing equipment and training to law enforcement officers on using the equipment.

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