



Senate Fiscal Agency  
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## BILL ANALYSIS



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House Bill 4547 (Substitute S-2 as reported by the Committee of the Whole)  
House Bill 4548 (Substitute S-2 as reported by the Committee of the Whole)  
Sponsor: Representative Klint Kesto (H.B. 4547)  
Representative Patrick Green (H.B. 4548)  
House Committee: Law and Justice  
Senate Committee: Judiciary

**CONTENT**

House Bill 4548 (S-2) would amend the Michigan Vehicle Code to delay until October 1, 2021, the date on which the bodily alcohol content (BAC) that constitutes operating while intoxicated will increase from 0.08 to 0.10.

The Code prohibits a person from operating a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, if he or she is operating while intoxicated. "Operating while intoxicated" means the person has a BAC of 0.08 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine (or meets other conditions under the definition).

Beginning October 1, 2018, the 0.08 BAC standard will increase to 0.10. Under the bill, the 0.08 BAC standard would continue to apply until October 1, 2021, when it would revert to 0.10 (which was the BAC standard for operating while intoxicated before the level was decreased to 0.08 by Public Act 61 of 2003).

House Bill 4547 (S-2) would amend the Code of Criminal Procedure to apply certain sentencing guidelines scores to drivers with a BAC of 0.08 or more until October 1, 2021, rather than October 1, 2018.

MCL 777.33 & 777.48 (H.B. 4547)  
257.625 et al. (H.B. 4548)

Legislative Analyst: Jeff Mann

**FISCAL IMPACT**

House Bill 4547 (S-2) would have no fiscal impact on local government and an indeterminate fiscal impact on the State. According to the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge* (in which the Court struck down portions of the sentencing guidelines law), the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

House Bill 4548 (S-2) could have a negative fiscal impact on State and local government with respect to criminal prosecutions and penalties, but would enable Michigan to continue receiving Federal transportation revenue. Regarding the negative fiscal impact, although the sunset delay would continue current law, this analysis compares the state of affairs with one in which the sunset took effect. In that event, individuals with a BAC of between 0.08 and

0.10 would not automatically be considered driving while intoxicated. Compared to that situation, extending the 0.08 BAC standard would increase the number of arrests and convictions for operating a vehicle while intoxicated.

Increased misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$3,764 per prisoner per year. In the long term, if the increased intake of prisoners increased the total prisoner population enough to require the Department of Corrections to open a housing unit or an entire facility, the marginal cost to State government would be approximately \$34,550 per prisoner per year. Any associated increase in fine revenue would increase funding to public libraries.

In addition, if the bill is not enacted, as much as \$57.0 million in annual Federal revenue for transportation would be in jeopardy. Pursuant to the U.S. Code (23 USC 163(e)(2)), the Federal government will withhold 6% of state apportionment funding for the National Highway Performance Program (NHPP) and the Surface Transportation Block Grant Program (STP) for any state that does not enforce a 0.08 BAC requirement. The Michigan Department of Transportation estimates that this figure would be \$57.0 million.

The Federal FAST Act (Fixing America's Surface Transportation Act) estimates of state apportionment funding, available on the U.S. Department of Transportation's Federal Highway Administration website, project that combined NHPP and STP funding will amount to payments to Michigan of \$926.4 million in 2018, \$944.7 million in 2019, and \$964.7 million in 2020. A 6% loss of NHPP and STP funds for those years would mean a reduction in Federal funding of \$55.6 million, \$56.7 million, and \$57.9 million, respectively. The State Trunkline Fund would bear the brunt of this funding loss, but the loss of funding to local jurisdictions due to this penalty could range from \$13.0 to \$15.0 million for each of those years.

Date Completed: 10-18-17

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