

Legislative Analysis



ELIMINATE CERTAIN DRIVER'S LICENSE SANCTIONS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5846 as introduced
Sponsor: Rep. Bronna Kahle

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

House Bill 5847 as introduced
Sponsor: Rep. Luke Meerman

House Bill 5850 as introduced
Sponsor: Rep. Rebekah Warren

House Bill 5848 as introduced
Sponsor: Rep. Donna Lasinski

House Bill 5851 as introduced
Sponsor: Rep. Tenisha Yancey

House Bill 5849 as introduced
Sponsor: Rep. Mike Mueller

House Bill 5852 as introduced
Sponsor: Rep. Lori M. Stone

Committee: Judiciary
Complete to 9-16-20

SUMMARY:

Taken together, the bills would eliminate driver's license sanctions (e.g., suspension, revocation, or restriction)¹ for several offenses and infractions that in general do not directly involve the operation of a vehicle.

House Bill 5846 would amend the Michigan Vehicle Code to remove certain provisions that require or allow the Secretary of State to suspend, revoke, restrict, deny, or refuse to renew a person's driver's license for various offenses under the code or other acts. (In some cases, these offenses carry other penalties or sanctions, which the bill would not change.)

The bill would eliminate current license sanctions for the following offenses:

- Having two or more moving violations in the previous three years.
- Failing to answer citations for three or more parking violations, or two or more for citations that involve parking for persons with disabilities.
- Failing to appear in response to a citation or to comply with an order or judgment, including failing to pay all fines, costs, fees, and assessments, for several civil infractions under the code.
- Failing to appear in response to a citation or to comply with an order or judgment, including failing to pay all fines, costs, fees, and assessments, for state civil infractions under Chapter 88 of the Revised Judicature Act.
- Failing to pay a driver responsibility fee or engage in the alternative workforce training.
- Failing to report a change of address, falsely reporting a change of address, or reporting a change of address for someone else without their permission.
- Perjury or making a false certification to the Secretary of State.
- Fraudulently altering or forging documents pertaining to motor vehicles.
- Failing to provide proof of insurance.

¹ For Secretary of State license actions, see: https://www.michigan.gov/documents/licens~1_20407_7.PDF

- Unlawful use of a driver’s license (among other things, altering a license, having a fake or altered license, letting someone else use it or using someone else’s).
- Making a false report of a crime or emergency at a school (e.g., a false school bomb threat).
- Using a fake ID to buy alcohol as a minor, purchasing alcohol as a minor, being a minor in possession of alcohol.
- Selling alcohol to a minor.
- Open alcohol in a vehicle.
- Using a motor vehicle without permission of its owner, but also without the intent to steal it (joyriding).
- Malicious destruction with a vehicle of trees, shrubs, grass, turf, plants, crops, or soil.
- Committing motor fuel theft.

The bill would also repeal section 319e of the code, which requires the Secretary of State to suspend the license of a person upon receiving an abstract of conviction for certain drug-related offenses under the Public Health Code, and section 321c, which requires license suspension for failing to pay child support or comply with a parenting time order under the Support and Parenting Time Enforcement Act.

The bill would remove or revise applicable provisions concerning license clearance fees and license reinstatement fees to comport with its proposed license sanction changes.

Finally, the bill would require, beginning the day it takes effect, that the Secretary of State waive the reinstatement fee for a person whose driver’s license was suspended, revoked, or restricted for reasons no longer eligible under the bill for those sanctions. The Secretary of State also would have to immediately reinstate a license that was suspended, revoked, or restricted for reasons no longer eligible under the bill.

MCL 257.204a et seq.

House Bill 5847 would amend the Michigan Liquor Control Code to eliminate license suspensions for selling or furnishing alcohol to a minor or for a minor purchasing or possessing alcohol.

The bill is tie-barred to HB 5846, which means that it could not take effect unless HB 5846 were enacted.

MCL 436.1701 and 436.1703

House Bills 5848 and 5849 would respectively amend the Insurance Code and the Revised Judicature Act to remove or revise references to provisions of law that would be eliminated under House Bill 5846.

The bills are tie-barred to HB 5846, which means that they could not take effect unless HB 5846 were enacted.

MCL 500.3303 and 500.3320 (HB 5848)

MCL 600.151d (HB 5849)

House Bill 5850 would amend the Support and Parenting Time Enforcement Act to eliminate license suspensions for missed payments under a support order or obligation or for failing to comply with a parenting time order.

The bill is tie-barred to HB 5846, which means that it could not take effect unless HB 5846 were enacted.

MCL 552.628 et al.

House Bill 5851 would amend Article 7 (Controlled Substances) of the Public Health Code to eliminate license suspensions imposed for certain drug-related convictions under that act.

The bill would not take effect unless both of the following occurred:

- The House and Senate approve a concurrent resolution expressing their opposition to the enactment or enforcement of the federal mandate under 23 USC 159.
- The governor submits a certification to the US Secretary of Transportation stating both of the following:
 - The governor is opposed to the enactment or enforcement of a law requiring driver license suspension for drug offenses as set forth in 23 USC 159(a)(3)(A).
 - Both houses of the legislature have adopted a concurrent resolution expressing their opposition to the enactment or enforcement of the federal mandate.

MCL 333.7408a

House Bill 5852 would amend the Code of Criminal Procedure to remove a reference to the licensing sanctions that would be eliminated by HB 5851 from a provision directing courts to impose licensing sanctions as provided by law.

The bill is tie-barred to HB 5851, which means that it could not take effect unless HB 5851 were enacted.

MCL 769.1e

FISCAL IMPACT:

According to the Joint Task Force on Jail and Pretrial Incarceration, traffic offenses accounted for half of all criminal court cases in 2018. Nearly 358,000 licenses were suspended for failure to appear and for failure to pay fines and fees. Driving with a suspended license is the third most common charge resulting in being sentenced to serve jail time. One of the recommendations of the Joint Task Force was to eliminate suspending and revoking people's driver's licenses as the punishment for actions that are not related to safe driving practices. The Joint Task Force recommended retaining license suspension as a punishment for people who are convicted of serious and unsafe driving offenses such as reckless driving, operating while intoxicated, and fleeing and eluding a police officer. Eliminating the number of driver's license suspensions and revocations ultimately would reduce jail admissions and would remove barriers to offenders who are trying to reenter the workforce.

In general, driving on a suspended or revoked license results in the following penalties: for the first offense, fines of up to \$500 and a maximum of 93 days in jail; for the second and subsequent offenses, fines of up to \$1,000 and up to one year in jail. A maximum sentence would depend on whether the offender had any prior convictions. In addition to serving jail time and having to pay the associated penal fines that get assessed, drivers would not be able to obtain, renew, or correct a driver's license, or obtain a duplicate license until the matters pending before the court have been cleared and the driver has paid the additional \$45 driver's license clearance fee to the Secretary of State for each suspension. Under certain circumstances, the \$45 fee is divided up as follows: \$15 to the county, \$15 to the Juror Compensation Fund, and \$15 to the Secretary of State. However, under other circumstances, the distribution of the fee revenue is different. For example, under MCL 257.321c, when circuit court clerks are required to collect the \$45 driver's license clearance fee from drivers seeking to remove Friend of the Court (FOC)-related driver's license suspensions, MCL 552.321c(6) requires clerks to transmit, from each fee collected, \$30 to the county treasurer for deposit into the Friend of the Court Fund and \$15 to the Secretary of State.

The bills would have an indeterminate fiscal impact on the state and on local units of government. Depending on the number of people who were actually charged under provisions of the bills that are being eliminated, the bills would result in reduced costs for local units of government related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in county jails and local misdemeanor probation supervision vary by jurisdiction. Also, there would be a decrease in penal fine revenues, which would reduce funding for the support of local public and county law libraries, which are the constitutionally designated recipients of those revenues. MCL 600.151d requires the state treasurer to credit to the Juror Compensation Reimbursement Fund deposits of proceeds from the collection of driver's license clearance fees. Revenues deposited into the Juror Compensation Reimbursement Fund would be reduced as driver's license clearance fees are eliminated or waived. Currently, revenue from driver's license clearance fees comprise 80% of the revenue in the Juror Compensation Reimbursement Fund. The bills would have a significant impact on deposits into the fund.

House Bill 5846 would result in a significant decrease in revenue to the Department of State (DOS) as well as decreases in revenue in varying degrees to other state departments and local public entities. The revenue decreases would be the result of a reduction in payments of license reinstatement fees and license clearance fees from the elimination of certain penalties provided under the bills. In FY 2018-19, DOS processed 65,589 reinstatement fee transactions and received \$2.8 million to support its operations. From license clearance fees, DOS collected \$1.7 million. With the data available from DOS, it is not possible to calculate the anticipated revenue decreases to DOS or other departments and entities, but the elimination of certain fees required under the bill could account for a substantial portion of the annual revenue from these fees.

The bill would eliminate driver license suspension as a penalty for certain vehicle code violations. This would result in a direct decrease in the number of drivers seeking license reinstatements and a corresponding decrease in revenue from payments of the \$125 license reinstatement fee. Section 320e of the Michigan Vehicle Code distributes revenue from license reinstatement fees according to the violations that led to the suspension. All fees impacted by the bills are \$125, except for the Friend of the Court reinstatement fee authorized under section 321c, which is \$85.

License reinstatement fee revenue affected by the bill is distributed in various allocations to six funds as shown below in Table 1. Data on the origination of reinstatement fee revenue by violation are not available to estimate the impact of eliminating suspension penalties for violations included in the bill.

Table 1
Distribution of License Reinstatement Fee Revenue

MVC Penalty	Receiving Department/Entity	Amount	Fund Legal Basis (MCL)	Description
303(2)d 319(2)a 319(3)d 319(5) 319(6) 319(9) 319(11) 319(12)	State	\$50	Reinstatement Fees 257.320e	Supports various operations within the Secretary of State.
319(6) 319(9) 319(11) 319(12)	Transportation	\$35	Economic Development Fund 247.902	Funds highway, road, and street projects that support economic growth.
321a 732a 732b	Judiciary	\$30	Drunk Driving Fund 257.625h	Funds the drunk driving case-flow program which assists trial courts with timely disposition of drunk driving offense cases.
319(7)	State Police	\$10	Drunk Driving Prevention and Training Fund 257.320e	Supports the purchase and maintenance of breath-alcohol testing equipment and training to law enforcement officers on using the equipment.
319(7)	State	\$125	Reinstatement Fees 257.320e	Supports various operations within the Secretary of State.
319e	State State Court Administrator, Circuit, District, and Probate Courts	\$95 \$30	Reinstatement Fees 257.320e Drug Case Information Management Fund 257.323d	Supports various operations within the Secretary of State. Defrays costs of reporting drug case information to Secretary of State; district, probate, and circuit courts receive funding based on caseloads.
321c	State	\$85	General Fund 321c	Deposited in the state general fund to be used to defray expenses of the Secretary of State in processing the suspension and reinstatement of driver licenses.

Table 2 shows the distribution of license clearance fees to DOS, local units of government, and Juror Compensation Reimbursement Fund.

Table 2
Distribution of License Clearance Fee Revenue

Receiving Department/Entity	Amount	Fund	Description
State	\$15	General Fund	Supports various operations within the Secretary of State.
Judiciary	\$15	Juror Compensation Reimbursement Fund	Funds highway, road, and street projects that support economic growth.
Circuit, District, Municipal Courts	\$15	County, City, District Treasurer General Funds	Supports juror compensation

Legislative Analyst: Emily S. Smith
Fiscal Analysts: Robin Risko
Michael Cnossen

■ 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.