

Legislative History and Practice Resources for the New Super Drunk Law

By Michael J. Dunn and Julianne Claydon

Next Halloween, the Michigan legislature has treats in store for drunk drivers in the form of newly passed House Bills 4289 and 4920 and Senate Bill 1134, likely to be more commonly referred to as the Super Drunk law.

As is common with laws that impose tougher penalties for criminal conduct, there was almost unanimous approval for the measures. Senate Bill 1134 passed the state House of Representatives by a 101-1 margin with eight legislators not voting¹ and was approved in the Senate by a 36-0 count.²

Super drunk refers to a blood alcohol level (BAC) of .17 or higher; the federally mandated definition of drunk while driving is a BAC of .08. Super-drunk penalties are enhanced to a misdemeanor with a possible 180-day jail sentence for a first offense. This means that a .17 BAC will carry a jail sentence that is effectively double what it is today.

A super-drunk offender will not only have his or her license suspended, but will also be required to install an interlock ignition device on his or her automobile for the balance of the suspension. The driver blows into the device to check his or her BAC level before starting the car. The car will not start if an unacceptable BAC level is recorded. The court must also order increased fines and a mandatory minimum one year of alcohol treatment in one form or another.

Why was this legislation enacted? Does Michigan need it? And, who, exactly, is behind this? Conducting a legislative history search can answer questions such as who sponsored the bills, which entities supported the bills, and the explanation, if any, given for the bills' introduction.

Legislative History— Beginning Point

The best place to start looking for answers to these questions is in the legislative history of these bills. Michigan's current statute regarding driving while intoxicated and reckless driving is MCL 257.625. When using either the Michigan Compiled Laws Annotated or the Michigan Compiled Laws Service, look for the history section at the end of the statute to begin peeling back the layers to determine what transpired before enactment.³ The history section will provide the Public Act number by which the statute was amended. This number has no correlation to the Michigan law it effects.

Legislative History— Bill Background

Once in hand, the Public Act number can be searched online at the Michigan legislature website⁴ to find out who sponsored the bill, the history of the House and Senate actions on the bill, and versions of the bill as introduced and passed.⁵ Also included on the same page are a bill analysis by the Senate Fiscal Agency and a legislative analysis by the House Fiscal Agency.

The legislative analysis offers the reason behind the bill being introduced, outlines the content of the bill, provides a fiscal analysis of the impact of the bill for the state, gives arguments both for and against the bill, and indicates which entities support, oppose, or are neutral on the legislation.

Bill Sponsor— Campaign Financial Disclosure

Information such as which senator or representative sponsored the bill can lead

to the question of whether the lawmaker is someone an entity could lobby. The answer to this question can be found at the Michigan Secretary of State website. The Michigan Lobby Introduction Act⁶ "was enacted in order to provide public disclosure of the activities of persons who attempt to influence the actions of state level public officials" and goes on to define a lobbyable person to include public officials elected at the state level.

Since senators and representatives can be lobbied and the legislative analysis lists entities in support of the bill, it may be of interest to search the Michigan Secretary of State's Campaign Finance Disclosure web page⁷ to check for donations to the bill sponsor by these same entities. At the campaign finance searchable database, you can search by candidate committee, independent/political committee, ballot question committee, political party committee, gubernatorial committee, contributions analysis, or expenditures analysis.⁸

A search by contributions analysis is the easiest and quickest way to see who donated, the date of donation, and the amount donated to a candidate. However, one drawback is that you can't search for a specific donor at the contributions analysis page. Rather, the pages are designed so that you must scroll down or use the computer's Ctrl-f function to search each page of 100 matches and click to advance to the next page of 100 matches.

Legislative History— Lobbyist Information

Another option is to search for a particular entity of interest at the Elections in Michigan Lobby Disclosure page⁹ to find out if

that entity is registered as a lobbyist with the state. There are several ways to search for registered lobbyists, including searching by registrant name, lobby financial summary analysis, itemized lobby expenditure analysis, and lobby public officials.

It is probably no surprise that the Michigan Ignition Interlock Providers Association is listed as an entity in support of the superdrunk legislation. Conducting a search by registrant name indicates that the Michigan Ignition Interlock Providers Association registered with the state as a lobbyist in August 2005. Additional information includes the ability to view employees of the lobbyist, employees of the employees of the lobbyist, and financial reports of both groups. For example, the Michigan Ignition Interlock Providers Association hired the Midwest Strategy Group of Michigan, LLC “for lobbying purposes in the State of Michigan.”¹⁰

Legislative History— Independent Resource

Official state websites are not the only source of legislative history material. The Michigan Votes website is another avenue to search for legislation, get a brief history of legislation, or search legislators' voting records.¹¹ Michigan Votes is a free public service of the Mackinaw Center for Public Policy.

Current Practice Materials

Switching now to resources for the practitioner wanting to keep abreast of the continuously changing laws relating to drunk driving, there are two resources of note.

The first is *Michigan Drunk Driving Law and Practice*, published by the Institute for Continuing Legal Education. The 2009 supplement to this title already reflects the 2010 modifications to MCL 257.625 and includes commentary on the legislative history and the wording of and revisions to the statute, raises concerns regarding the application of the law, and offers awareness to the practitioner concerning growing trends.

The second resource is the Michigan OWI Handbook (with forms). This 2009 West publication provides criminal defense trial practice information and information about criminal procedures.

Additionally, the Michigan Secretary of State website is a good place for practitioners to send clients for clear and concise information on Michigan's driving laws and driver's license ramifications for driving offenses related to drug and alcohol use.¹² To access this information, select the “Driver's License and State ID” option on the Secretary of State's main page, then select “Losing Your Privilege to Drive.”

Conclusion

Online access to legislative history resources makes it easier than ever to discover new legislation being introduced, uncover the reasons behind its introduction, know the sponsors and supporters as well as detractors of the legislation, and read arguments in favor of and against a bill's passage. Practitioners occasionally have the need to argue the legislative intent behind the passage of a law and the definite need to stay current with the law. The resources detailed above offer both. ■

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FOOTNOTES

1. Michigan Votes, *House Roll Call 1150* <<http://www.michiganvotes.org/RollCall.aspx?ID=310448>>. All websites cited in this article were accessed December 10, 2009.
2. Michigan Votes, *Senate Roll Call 899* <<http://www.michiganvotes.org/RollCall.aspx?ID=310668>>.
3. The text of the statute in both its currently enacted form as well as its amended form can be accessed online at the Michigan Legislature Website <[http://www.legislature.mi.gov/\(S{hx05on55pj4uso45ad5hoh45}\)/mileg.aspx?page=MCLBasicSearch](http://www.legislature.mi.gov/(S{hx05on55pj4uso45ad5hoh45})/mileg.aspx?page=MCLBasicSearch)>.
4. Michigan Legislature Website <[http://www.legislature.mi.gov/\(S{dzsydejmmeuif45ct5sds45}\)/mileg.aspx?page=home](http://www.legislature.mi.gov/(S{dzsydejmmeuif45ct5sds45})/mileg.aspx?page=home)>.
5. Michigan Legislature Website <[http://www.legislature.mi.gov/\(S{y0zrzfrwhxjvee45hwz0gbzj}\)/mileg.aspx?page=PublicActs](http://www.legislature.mi.gov/(S{y0zrzfrwhxjvee45hwz0gbzj})/mileg.aspx?page=PublicActs)>.
6. 1978 PA 472.
7. Michigan Secretary of State, *Campaign Finance Disclosure* <http://www.michigan.gov/sos/0,1607,7-127-1633_8723---00.html>.
8. Michigan Secretary of State, *Searchable Database Downloads & Statistics* <http://www.michigan.gov/sos/0,1607,7-127-1633_8751---00.html>.
9. Michigan Secretary of State, *Lobby Disclosure* <http://www.michigan.gov/sos/0,1607,7-127-1633_11945---00.html>.
10. Michigan Secretary of State, *Results of Michigan Election Precinct Results* <http://miboeocr.nicusa.com/cgi-bin/cfr/lobby_detail.cgi?lobby_id%3D9635%26last_match%3D%26exp_last_match%3D%26lobby_seq_no%3D%26show_employees%3DY#EMP>.
11. Michigan Votes <<http://www.michiganvotes.org/>>.
12. Michigan Secretary of State <www.michigan.gov/sos>.