

Safe & Just Michigan

Testimony of Safe & Just Michigan in Support of H.B. 5846-53

House Judiciary Committee

Wednesday, September 16, 2020 @ 10:15 AM

Room 519, House Office Building, Lansing, MI

Good morning. My name is John Cooper; I am the Executive Director of Safe & Just Michigan, a non-partisan criminal justice policy and research organization based in Lansing.

Safe & Just Michigan **supports House Bills 5846-52**, which seek to end the counterproductive practice of suspending a person's driver's license as punishment for conduct unrelated to their driving. On a daily basis, this practice forces thousands of Michiganders to choose between driving legally and meeting their transportation needs for work, school, childcare, and other necessities, and it leads many into a spiral of debt and incarceration they struggle to escape.

We likewise **support H.B. 5853**, which will reclassify a number of misdemeanor traffic offenses as civil infractions, and thereby make their penalties more proportionate and help focus judicial and law enforcement resources on more important public safety priorities. Traffic offenses constitute half of all criminal cases in Michigan, and they consume too much of our judicial and law enforcement resources.

Problem #1: Driver's License Suspensions

Michigan, home of the auto industry, is built around the car. About 70% of Michigan's nearly 10 million residents are licensed to drive,¹ and there is more than one registered passenger vehicle for every licensed driver.² Indeed, *most people in Michigan* drive to meet their daily transportation needs and those of their families. Because of this, the loss of the ability to drive legally can force a person to choose between driving illegally and having no transportation to work, school, or the grocery store. Yet we force thousands of people in Michigan to make this choice every day - not because of public safety, but because they are poor.

Driver's license suspensions unrelated to driving safety and criminal cases based on them impact hundreds of thousands of Michiganders annually: the Joint Task Force on Jails and Pretrial Incarceration found that in 2018 alone *358,000 people* had their driver's licenses suspended for failing to appear in court or failure to pay court fines and fees.³ A separate study found that the vast majority of all driver's license suspensions--an estimated *95% of the*

¹ See <https://www.fhwa.dot.gov/policyinformation/statistics/2010/dl22.cfm> at Table DL-22.

² See https://www.michigan.gov/documents/mdot/MDOT_fastfacts02-2011_345554_7.pdf.

³ See Michigan Joint Task Force on Jails and Pretrial Incarceration, *Report and Recommendations* (Jan. 10, 2020) at 10, available at <https://courts.michigan.gov/News-Events/Documents/final/Jails%20Task%20Force%20Final%20Report%20and%20Recommendations.pdf>.

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total--were for reasons unrelated to a person's driving, and that most such suspensions were for an inability to pay outstanding fines and fees.⁴

Further, the Joint Task Force on Jails and Pretrial Incarceration found that driving without a valid license is the third leading cause of admission to jail in Michigan.⁵ Given that the vast majority of suspensions were for unpaid fines and fees, most of these convictions and jail sentences were likewise due to a person's inability to pay rather than their driving. This is, pure and simple, a criminalization of poverty that has no place in our justice system.

Even prior to the COVID-19 pandemic, most Americans lacked emergency savings sufficient to cover court fines or fees, and/or reinstatement fees for a driver's license⁶--a problem that is very likely worse now. And the loss of the ability to drive legally can lead to spiraling consequences for impacted people and their families--from job loss, to loss of housing, to bankruptcy, to further involvement in the criminal justice system--that society has compelling reasons to prevent. For all of these reasons, the current approach makes little sense from a policy perspective.

However, beyond this, there is *no public safety justification* for current practice either: by definition, a driver's license suspension for reasons *unrelated to a person's driving* serves no legitimate purpose in the traffic code. Rather, it is unnecessary supplemental punishment for non-driving conduct that is either already criminal (e.g. unpaid child support, drug possession), or subject to civil remedies (e.g. unpaid fines and fees). Specific moving offenses directly related to driving safety, such as reckless driving, operating while intoxicated, and fleeing and eluding an officer will continue to be grounds for license suspension and criminal penalties, as H.B. 5846-52 contemplate, and are sufficient to serve the policy goals of the traffic code.

Given that the ability to drive is essential to daily life for most Michigan residents, that many lack the ability to pay unexpected fines and fees (including license reinstatement fees, which themselves are often hundreds of dollars⁷), and the potential consequences of license suspensions, the Michigan Legislature should pass H.B. 5846-52 and eliminate the practice of suspending licenses for reasons unrelated to a person's driving.

⁴ See James Craven, *Driver's License Suspension Reform: The Right Road for Michigan* (Reason Foundation, April 2018) at 1, available at <https://reason.org/wp-content/uploads/2018/04/michigan-suspended-drivers-license-reform.pdf>.

⁵ See *id.* at 8.

⁶ See <https://money.cnn.com/2017/01/12/pf/americans-lack-of-savings/index.html> (finding 6 in 10 Americans do not have \$500 in savings for an emergency).

⁷ See James Craven, *Driver's License Suspension Reform: The Right Road for Michigan* (Reason Foundation, April 2018) at 10-12, available at <https://reason.org/wp-content/uploads/2018/04/michigan-suspended-drivers-license-reform.pdf>.

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Problem #2: Overcriminalization of the Traffic Code

Half of all criminal cases in Michigan are for traffic offenses,⁸ and most of these are misdemeanors.⁹ A number of the traffic misdemeanors that are clogging our state court system penalize licensing and registration violations that, absent more, do not relate to driving safety and are more appropriately dealt with as civil infractions. These include:

- Operating an unregistered vehicle (MCL 257.215);
- Expired license plates on a commercial vehicle and unlawful use of license plates, registration, or title (MCL 257.255 and 256);
- Operating with no license or multiple licenses (MCL 257.301);
- Operating without a license on person (MCL 257.311);
- Operating in violation of license restriction (MCL 257.312);
- Operating with a forced, altered, or false ID (MCL 257.324);
- Owner permitting another to violate motor vehicle code (MCL 257.326);
- Driving with license suspended, except in cases where the underlying suspension is for dangerous driving offenses (MCL 257.904);
- Driving with suspended or revoked vehicle group designation (MCL 257.904); and
- Operating with no license after refused for three years (MCL 257.904a).

Reclassifying these violations as civil infractions will reduce the resources dedicated to enforcing them as criminal laws, will free up law enforcement resources to focus on more important public safety priorities, and will make penalties for noncompliance more proportional to the violation at issue.

Standing alone, these violations do not pose a threat to public safety that warrants arrest or jail time; if a case involves more serious conduct, it can be charged criminally as one of the specific moving offenses directly related to driving safety that are untouched by H.B. 5853, such as reckless driving, operating while intoxicated, and/or fleeing and eluding an officer.

Safe & Just Michigan supports the commonsense changes to Michigan's overcriminalized traffic code that are contemplated by H.B. 5853. Criminal penalties should be reserved for conduct that poses a significant risk to public safety; absent more, the regulatory violations at issue here do not rise to that level.

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Safe & Just Michigan urges the Michigan Legislature to pass H.B. 5846-53 without changes and without delay. These important reforms will improve the lives of hundreds of thousands of Michiganders, will make our criminal justice system more efficient and more fair, and will

⁸ See *id.* at 10.

⁹ See <https://courts.michigan.gov/education/stats/Caseload/reports/statewide.pdf>.

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improve both productivity and public safety by eliminating a significant, unnecessary barrier to success that is faced by hundreds of thousands of vulnerable people annually.

We would be happy to answer questions from the committee or provide additional information on the subjects of this testimony. Please do not hesitate to reach out.

Thank you.

Respectfully submitted,

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