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Synopsis of Senate Committee Amendments

(This synopsis does not address amendments that may have been adopted on the Senate Floor.)

H.B. 37 of the 135th General Assembly

Senate Judiciary

Margaret E. Marcy, Attorney

Aggravated vehicular assault penalties

- Removes the differentiation between “low tier OVI offense” and “high tier OVI offense,” thus treating all prior OVI offenses equally for purposes of increasing penalties.
- Removes a prior reckless operation offense that involves alcohol, a drug of abuse, or a combination of them as a potential prior offense that increases the penalties for the current offense.
- Removes the fifth tier from the House-Passed version of the bill, which was structured around the differentiation of low tier and high tier OVI offenses.
- Increases the lowest-possible minimum mandatory prison term for a fourth-tier offender from ten years to 12 years.

Oral fluid testing

- Authorizes law enforcement to collect an oral fluid sample from a person arrested for OVI.
- Authorizes the testing of that oral fluid sample for the presence of a drug of abuse or a metabolite of a drug of abuse.
- Authorizes the oral fluid sample and its test results to be used as evidence related to OVI charges.
- Specifies that any person who operates a vehicle or who is in physical control of a vehicle has given consent to have that person’s oral fluid collected and tested if arrested for OVI (implied consent).
- Makes conforming changes to the laws governing OVI while operating a watercraft or a commercial motor vehicle and the release of drug test records in criminal cases.

OVI penalties

Criminal fines

- Increases the minimum criminal fines for OVI by an additional \$190, instead of an additional \$375.
- Distributes that \$119 as follows:
 - \$75 is allocated to the special projects fund of the sentencing court to be used to cover the cost of immobilizing or disabling devices and remote alcohol monitoring devices for indigent offenders. If the court does not have a special projects fund, the money is directed to the Indigent Drivers Interlock and Alcohol Monitoring Fund (IDIAMF). (Current law allocates \$50 of OVI criminal fines for the above distribution.)
 - \$115 is allocated to the Statewide Treatment and Prevention Fund, which is managed by the Department of Mental Health and Addiction Services (an increase of \$2.50 from what the fund receives under current law as part of the OVI driver's license reinstatement fee).

Reinstatement fee

- Decreases the overall OVI driver's license reinstatement fee from \$475 to \$315 by doing the following:
 - Reallocating \$50 directed to the IDIAMF as part of the \$75 allocated to the special projects fund, or the IDIAMF, as applicable, as part of the criminal fines;
 - Reallocating \$112.50 directed to the Statewide Treatment and Prevention Fund as part of the criminal fines; and
 - Increasing the portion directed to the Indigent Drivers Alcohol Treatment Fund from \$37.50 to \$40.

Limited driving privileges and ignition interlock devices

- Removes a prior reckless operation offense that involves alcohol, a drug of abuse, or a combination of them as a potential prior offense that then requires the court to condition limited driving privileges on use of an ignition interlock device.
- Authorizes a court to waive the 15-day hard suspension for a first-time offender who has no prior physical control offenses and who agreed to chemical testing at the time of arrest on suspected OVI.
- For a first-time offender who was convicted of OVI or who is on an administrative license suspension after agreeing to chemical testing at the time of arrest and testing above the per-se levels, does both of the following:
 - Increases the 15-day hard suspension to a 45-day hard suspension if the offender has a prior physical control offense within the ten years prior to the current OVI offense; and

- Requires the court condition limited driving privileges on use of an ignition interlock device for that offender.
- For a first-time offender who is on an administrative license suspension after refusing to submit to chemical testing at the time of arrest, does both of the following:
 - Increases the 30-day hard suspension to a 90-day hard suspension if the offender has a prior physical control offense within the ten years prior to the current OVI offense; and
 - Requires the court condition limited driving privileges on use of an ignition interlock device for that offender.