

Legislative Analysis



PROOF OF AUTO INSURANCE

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House Bill 4193 (Reported from committee as H-1)

Sponsor: Rep. Aric Nesbitt

Committee: Insurance

Complete to 3-24-15

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

(Enacted as Public Act 135 of 2015)

SUMMARY:

Under the Insurance Code, generally speaking, auto insurance coverage is mandatory for the operation of a motor vehicle. Under the Vehicle Code, drivers must show proof of no-fault auto insurance at the request of a police officer. The Vehicle Code also describes the manner in which proof of insurance is to be provided to the Secretary of State when registering a motor vehicle. Under both statutes, auto insurance companies must regularly transmit information about the vehicles they insure to the Department of State.

House Bill 4193 would amend the Vehicle Code (at MCL 257.227 & 328) regarding this system in the following ways.

** A certificate of insurance in electronic form (in addition to the currently required paper certificate) would be considered prima facie evidence that motor vehicle insurance is in force when proof of insurance was requested by a police officer.

** If a person displayed an electronic copy of the certificate of insurance using an electronic device, the police officer could only view the electronic copy of the certificate and would be prohibited from manipulating the device to view any other information on the device. A person who displayed a certificate of insurance using an electronic device would not be presumed to have consented to a search for that device.

** A police officer could require an individual to electronically forward the electronic copy of the certificate to a specified location provided by the officer (e.g., by email). The officer could then view the electronic copy in a setting in which it was safe for the officer to verify the validity and accuracy of the information.

** The state, a law enforcement agency, or an employee of the state or law enforcement agency, would not be liable for damage to or loss of an electronic device as a result of a police officer's viewing of the device, regardless of who was in possession of the device at the time of the damage.

The bill would take effect 90 days after being enacted.

FISCAL IMPACT:

The bill would have no significant fiscal impact on the Michigan State Police. The bill would have no significant fiscal impact on the Secretary of State, as any potential increased administrative costs would be absorbed by current funding levels.

BACKGROUND AND DISCUSSION:

The bill allows a driver to show proof of insurance to a police officer electronically—on a cell phone or tablet, for example, instead of using a paper copy. The substitute version of the bill attempts to address safety concerns expressed by police agencies about the difficulty or danger police might be exposed to by having to handle cell phones during traffic stops. The substitute allows a police officer to require a driver to email the information from the phone to a site designated by the officer (such as the computer in the police car), where the officer could view it and verify it. Law enforcement representatives testified, among other things, about the importance during traffic stops of keeping their hands free, and also noted the complications involved in handling multiple phones in multiple-vehicle accidents.

The substitute also removes a provision that would have required the Secretary of State to make the vehicle policy information that insurance companies must provide the SOS every 14 days available to the State Police for the purpose of determining whether evidence exists that a motor vehicle is insured.

The bill is seen as a first step towards a "real time" verification system that will allow law enforcement to know whether drivers have required insurance. Such a system would combat insurance fraud that occurs when drivers purchase short-term policies or pay only the initial premiums and allow policies to lapse. Knowledgeable observers indicated that more work is required before insurance companies, the Secretary of State, and police agencies will be able to implement a "real time" system. While that may ultimately be where the system needs to go, that represents a significant undertaking by the insurance industry and others.

POSITIONS:

The following indicated support for the bill to the Insurance Committee on 3-19-15:

The Insurance Institute of Michigan
The Deputy Sheriffs Association of Michigan
The Coalition Protecting Auto No-Fault (CPAN)
The Michigan Association of Insurance Agents (MAIA)

Legislative Analyst: Chris Couch
Fiscal Analyst: Paul Holland
Perry Zielak

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