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DRIVER TRAINING AMENDMENTS

House Bill 4007 (Substitute H-2) House Bill 4008 (Substitute H-1) First Analysis (10-21-99)

**Sponsor: Rep. Ron Jelinek
Committee: Regulatory Reform**

THE APPARENT PROBLEM:

Public Act 11 of 1998 amended the law regulating driver training schools to, among other things, require that an applicant for a driver training school license undergo a criminal background check by the Michigan Department of State Police (DSP) and the Federal Bureau of Investigation (FBI) before being licensed to teach drivers education courses. In addition, the act also requires a background check to be conducted at least once every two years as a condition for license renewal. Since the enactment of P.A. 11 in June of 1998, driver training schools have reported difficulty in hiring sufficient staff to meet client needs due to the length of time for the background checks to be completed. Reportedly, a backlog at the FBI is resulting in a lag time of seven to ten weeks on the criminal checks, and some schools have experienced a delay of four to six months or more on the investigations of some candidates for employment. Since people in need of employment usually cannot wait two or more months before being able to start work, potential employees are being lost to other jobs. It has been proposed, therefore, that the law be amended to allow the DSP to issue a license certificate on a temporary basis to those applicants who pass the state portion of the criminal background check, pending the results of the FBI investigation. It has also been suggested that the interval between background checks for license renewals be lengthened.

In a separate but related matter, Public Act 12 of 1998 required that an operator of a driver training school that advertised his or her services to the general public include in the advertisement that nonpersonal information related to the driving record of each of the instructors be available for review by the public at the business address of the owner. As advertising costs increase by the number of lines of print in the advertisement, and since driving schools in the state report that few if any people have asked to see the

driving records, it has been proposed that the information pertaining to viewing the instructors' driving records be allowed to be included on the business contract between the student and the driving school.

THE CONTENT OF THE BILLS:

House Bill 4007 would amend the act regulating driver training schools (MCL 256.605 and 256.605b) to allow the Department of State to issue a license certificate to a person who has applied for a driving instructor's license after a favorable criminal history check has been completed by the Department of State Police, on the condition that the license could be canceled or revoked depending on the outcome of an investigation by the Federal Bureau of Investigation. If the FBI investigation showed the instructor did not satisfy the qualifications for a license, the department would be required to immediately notify the driver training school, and the school would require the instructor to surrender his or her license certificate.

In addition, the act currently requires additional criminal background checks to be conducted at least once every two years as a condition for license renewal. The bill would lengthen the interval between background checks to at least once every five years.

House Bill 4008 would amend the Michigan Vehicle Code (MCL 257.208b) to require a driver training school operator to include in its contract with each client a notice specifying that nonpersonal driving record information for each individual instructor is available for review by the general public. The bill would eliminate the reference in the current provision that requires this information in any advertisement that a driving school operator publishes in a written publication or through any electronic or computerized media.

House Bills 4007 and 4008 (10-21-99)

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, neither of the bills would have a fiscal impact on state or local government. (10-18-99)

ARGUMENTS:**For:**

Many schools no longer offer driver's education programs, and thus private companies are experiencing an influx of new students. Since instructors may be alone in a car for periods of time with a client, no one disputes the need for criminal history checks for people who teach driver's education courses. However, due primarily to a backlog at the FBI, the entire process of checking an applicant's background is taking about seven to ten weeks. Some schools have reported delays of over six months for some individual applicants. This is proving to be a hardship both for the driving schools and potential instructors. Many people in need of a job cannot wait two or more months before being able to work, and so seek other employment. This in turn has left some driving schools short of sufficient staff to meet the growing demand for their services.

House Bill 4007 would provide a remedy by allowing the Department of State to issue a license certificate as a driving instructor to an applicant who received a favorable report from the Michigan Department of State Police. The person would then be able to begin work as a driving instructor, but the license would be contingent on the FBI portion of the criminal history check. If the FBI check were also favorable, the person would retain the license certificate. If not, the license would be canceled or revoked, and the driving school would be notified. Since the secretary of state would be under no obligation to issue such a certificate on a temporary basis, the potential for dangerous people to slip through, even for a short time, would be minimized. The bill presents a fair and workable solution for driving schools and potential instructors, yet retains protection for the public.

Response:

It is unfortunate that at this time, the FBI portion of the criminal history checks are taking as long as they are. However, to issue a license certificate to be a driving instructor before the background investigation is completed would be a terrible mistake. Since driving instructors are often alone with their clients, and since more and more high school students must use these companies to learn to drive a car, every precaution must be taken to ensure the safety and well-being of the public. The relatively short wait under the current

system is justified considering the high cost to a client who may be assaulted or endangered by an instructor who slipped through the window that the bill would create. Besides, the bill really is not needed, as the FBI has informed state agencies that by the spring of 2000 it will have dealt with its backlog problem and should be able to complete the fingerprint checks within 48 hours.

For:

Public Act 12 of 1998 requires that driving schools who advertise their services include within the advertisement a statement that information pertaining to nonpersonal driving records of the individual instructors is available for viewing by the public. Since advertising costs are largely dependent on the amount of space that an advertisement takes up, this is adding an unnecessary cost that could be passed along to consumers. Though making the driving records of the instructors available for public scrutiny is important and necessary, some would argue that this information can be made apparent to the public in other, more cost efficient ways. For instance, some driving schools already include a statement regarding the availability of the driving records on the contract between clients and the school. Since people are encouraged to read the contract before signing it, the information about accessibility to the driving records is being given at a time (and usually at a place) where it would be expedient to request to see them. Therefore, House Bill 4008's requirement that this information be printed clearly on the contract (rather than within the body of an advertisement) makes good sense.

POSITIONS:

A representative of Courtesy Driving School, Inc. indicated support for the bills. (10-19-99)

A representative of Sears Authorized Driving School submitted testimony in support of the bills. (10-19-99)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.