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BILL ANALYSIS

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House Bill 5802 (Substitute S-1 as reported)
Sponsor: Representative Gene DeRossett
House Committee: Transportation
Senate Committee: Transportation

Date Completed: 6-10-04

RATIONALE

In July 2002, the Federal Motor Carrier Safety Administration published final rules implementing mandates of the Motor Carrier Safety Improvement Act related to the overall safety of the commercial driver license (CDL) program. Among other things, the rules impose sanctions on states not in substantial compliance with the Act. The sanctions include the withholding of Motor Carrier Safety Assistance Program funds, and a percentage of Federal aid highway funds. (The potential sanctions against this State are described under **FISCAL IMPACT**, below.) It has been suggested that Michigan's law be amended to incorporate these Federal regulations in order to avoid the loss of Federal funds, as well as increase highway safety.

CONTENT

The bill would amend the Michigan Vehicle Code to do the following:

- Expand the information that the Secretary of State (SOS) must maintain on an individual's driving record; and require the SOS to maintain only specified information for a nonresident.
- Require the SOS to request the complete driving record of an applicant for a vehicle group designation or indorsement from all states in which he or she was licensed in the previous 10 years.
- Allow the SOS to deny a nonresident's right to operate a motor vehicle in Michigan.
- Require the SOS to notify the appropriate official of a state in

which a nonresident was licensed to operate a commercial motor vehicle (CMV) of a conviction, civil infraction determination, or bail forfeiture.

- **Require the SOS to provide information contained in an individual's driving record to specified people and entities upon request.**
- **Require records of certain convictions to be maintained for the life of the violator, or until he or she moved to another jurisdiction, rather than for the 10 years currently required.**
- **Require a person who administered a driving skills test for the SOS to complete both a State and a Federal Bureau of Investigation (FBI) fingerprint-based criminal history check.**
- **Revise the conditions under which the SOS may not issue a vehicle group designation or indorsement to an applicant.**
- **Expand the offenses for which a CDL must be suspended or revoked; and extend the revocation period for certain offenses from 10 years to the person's life, with eligibility for reinstatement after 10 years.**
- **Require a school bus driver to obtain an S (school bus) indorsement, in addition to a P (passenger) indorsement.**
- **Expand the definition of "conviction" and revise the definition of "serious traffic violation".**
- **Provide that a conviction, bond forfeiture, or civil infraction determination for certain violations**

- **committed in a non-CMV would count against a CDL holder the same as if he or she were operating a CMV at the time of the violation.**
- **Require the SOS to suspend the operator's license of a CDL holder if he or she failed to answer an out-state citation, or a notice to appear in a court or an authorized administrative tribunal.**
- **Repeal Section 314b of the Code, which allows the SOS to issue a two-year license to certain drivers.**

Definition of "Conviction"

The Code defines "conviction" as a final conviction, the payment of a fine, a plea of guilty or no contest if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication, probate court disposition, or juvenile disposition for a violation that would be a crime if committed by an adult, regardless of whether the penalty is rebated or suspended.

Under the bill, the term also would mean a conviction defined in Federal law under 49 CFR 383.5, regarding the operation of a CMV or the operation of a non-CMV operated by a person licensed to operate a CMV. (That section of the Code of Federal Regulations defines the term as an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or no contest accepted by the court, the payment of a fine or court costs, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.)

Computerized Central File

The Code requires the Secretary of State to create and maintain a computerized central file that provides an individual historical driving record for a person, including a nonresident, including specified information. The bill would delete the reference to a nonresident, and revise the information that must be included.

Currently, the file must include a conviction or civil infraction determination entered

against the person for a violation of the Code or a substantially corresponding local ordinance. The bill would add any other licensing action, and include a conviction, civil infraction determination, or other licensing action that was reported to the SOS by another jurisdiction.

The Code also requires the file to include a cancellation, denial, revocation, suspension, or restriction of the person's operating privilege under the Code. The bill would add a failure to pay a Department of State driver responsibility fee or any other licensing action regarding that person, and include sanctions that were reported to the SOS by another jurisdiction. This provision also would apply to nonresidents.

In addition, the bill would require that the file include any driving record requested and received by the SOS under Section 307, and any notice given by the SOS and the information provided in that notice under Section 317(3) or (4) (described below).

The bill also would require the SOS, after receiving a request for information contained in the records, to provide the information to any of the following:

- Another state.
- The United States Secretary of Transportation.
- The person who was the subject of the record.
- A motor carrier employer or prospective motor carrier employer, but only if the person who was the subject of the record were first notified of the request.
- An authorized agent of any person or entity listed above.

Nonresident Applicants & Licensees

Under Section 307, if the Secretary of State receives an application for an operator's or chauffeur's license from a person who was previously licensed in another jurisdiction, the SOS must request a copy of his or her driving record and other available information from the National Driver Register (NDR). When received, the driving record and other available information become a part of the driver's record in Michigan.

If the application is for an original, renewal, or upgrade of a vehicle group designation or

indorsement, the SOS also must check the applicant's driving record with the NDR and the Federal Commercial Driver License Information System (CDLIS) before issuing the group designation or indorsement. The bill would require the Secretary of State also to request the person's complete driving record from all states where he or she was previously licensed to drive any type of motor vehicle over the last 10 years, before issuing the vehicle group designation or indorsement. If the applicant did not hold a valid CDL from a state where he or she was licensed in the last 10 years, the record request would have to be made within 24 hours before the SOS issued the vehicle group designation or indorsement. For all other drivers, the request would have to be made within 10 days before the SOS issued the vehicle group designation or indorsement. If the application were for the renewal of a vehicle group designation or indorsement, and if the SOS entered on the person's historical driving record a notation that the request was made and the date of the request, the SOS could request the complete driving record from other states only once.

Under Section 317, the SOS may suspend or revoke the right of a nonresident to operate a motor vehicle in Michigan for a cause for which the license of a resident driver may be suspended or revoked. Under the bill, the SOS also could deny a nonresident's right to operate.

A nonresident who drives when the privilege to drive has been suspended, revoked, or denied is guilty of a misdemeanor punishable by imprisonment for up to 93 days and/or a maximum fine of \$500, for a first offense; and by imprisonment for up to one year and/or a maximum fine of \$1,000 for a subsequent offense. Upon receiving a record of the conviction, civil infraction determination, suspension, revocation, or forfeiture of bail in Michigan of a nonresident, the SOS may forward a certified copy of the record to the motor vehicle administrator or other appropriate officer in the State in which the person is a resident. The bill would require the SOS to forward the certified copy to the motor vehicle administrator or appropriate officer in the state in which the person resided.

The bill also would add subsection (3) to Section 317 to require the SOS to notify the

motor vehicle administration or other appropriate officer of a state in which a nonresident was licensed of a conviction, civil infraction determination, or bail forfeiture within 30 days after an appeal period had expired if an appeal were not made in a conviction, determination, or forfeiture against a nonresident for a violation committed while operating a CMV or any violation for a CDL holder regardless of vehicle type, except a parking violation, beginning October 1, 2005. The SOS would have to give notice within 10 days after an appeal was completed or the appeal period had expired if an appeal were not made, beginning October 1, 2008.

The bill also would add subsection (4) to Section 317. Under that subsection, if the SOS suspended, revoked, canceled, or denied the driving privileges of a nonresident for at least 60 days and the nonresident were licensed by another state to operate a CMV, the SOS would have to forward a notification to the motor vehicle administrator or other appropriate officer in that state within 10 days after the effective date of the suspension, revocation, cancellation, or denial. A notice would have to include both the denial, if any, and the violation that caused the suspension, revocation, cancellation, or denial of the nonresident's driving privileges.

Maintenance of Records

Under the Code, records of convictions may be destroyed after being maintained on file for 10 years for any of the following offenses for which points are provided:

- Committing a moving violation that has criminal penalties and causing injury to or the death of a person operating an implement of husbandry on a highway.
- Causing injury to or the death of a police officer, firefighter, or other emergency response personnel by failing to move to an adjacent lane or slow down upon approaching a stationary authorized emergency vehicle.
- Operating while intoxicated (i.e., being under the influence of intoxicating liquor or a controlled substance; or having a blood alcohol content (BAC) of at least 0.08 gram per 100 milliliters of blood, 210 liters of breath, or 67 milliliters of urine).

- Operating with any bodily amount of a Schedule 1 controlled substance (which includes opiates, opium derivatives, and hallucinogenic substances) or cocaine.
- Causing the serious impairment of a body function or the death of another person by operating while under the influence of intoxicating liquor or a controlled substance; operating while visibly impaired due to the consumption of alcoholic liquor or a controlled substance; or operating with any bodily amount of a Schedule 1 controlled substance or cocaine.
- Committing any of the listed violations involving alcohol and controlled substances while another person under the age of 16 occupies the vehicle.
- Operating an off-road vehicle (ORV) under the influence of alcohol or a controlled substance; or with a BAC of at least 0.10 gram per 100 milliliters of blood, 210 liters of breath, or 67 milliliters of urine.
- Causing the serious impairment of a body function or death of another person by operating an ORV under the influence or with a BAC of at least 0.10 gram.
- Knowingly permitting a person under the influence of intoxicating liquor to operate an ORV.
- Operating a snowmobile under the influence of intoxicating liquor or a controlled substance, or with a BAC of at least 0.10 gram.
- Exceeding the posted speed limit in a work zone by more than 15 miles per hour.
- Refusing to submit to a chemical test upon request by a peace officer.

The bill would retain this provision, but provides that the record of a conviction would have to be maintained for the life of the person or until he or she moved to another jurisdiction, if a CDL holder, or a noncommercial license holder who operated a CMV, were convicted, under a law of this State or a substantially corresponding local ordinance, of any of the following violations:

- Operating a vehicle while intoxicated, visibly impaired, or with any bodily amount of a Schedule 1 controlled substance or cocaine, or causing the death or serious impairment of a body function of another person while doing so; committing any of these violations while a person younger than 16 occupied

- the vehicle; or allowing a person to operate a vehicle while intoxicated or visibly impaired.
- Operating a CMV with a BAC of between 0.04 gram and 0.08 gram per 100 milliliters of blood, 210 liters of breath, or 67 milliliters of urine.
- Leaving the scene of an accident.
- Using a vehicle to commit a felony.
- Refusing to take an alcohol or controlled substance test required under the Code.
- Operating a CMV when the person's operator's or chauffeur's license or vehicle group designation was suspended, revoked, or canceled as a result of prior violations committed while operating a CMV.
- Operating a CMV when the person was disqualified from operating a CMV.
- Causing any fatality through the negligent operation of a CMV.

Driving Skills Test

The Code prohibits the Secretary of State from issuing an original operator's or chauffeur's license without a vehicle group designation or indorsement, level 2 graduated licensing status, or a motorcycle endorsement if an individual has not passed an examination that includes a driving skills test conducted by the SOS or by a designated examining officer. The SOS may enter into an agreement with another public or private corporation or agency to conduct the test.

The bill would require a person or examiner to complete both a State and FBI fingerprint-based criminal history check through the Michigan Department of State Police (MSP) before the SOS could authorize the person to administer a corporation's or agency's driver skills testing operations or authorize an examiner to conduct a driving skills test.

The bill also would require the SOS to prescribe the method and examination criteria the corporation, agency, or examiner would have to follow when conducting the driving skills test and the form of the certification to be issued to a person who satisfactorily completed the test; currently, the Code is permissive.

Currently, an applicant for an original vehicle group designation or passenger indorsement who has been issued a

temporary instruction permit to operate a CMV may operate a vehicle requiring a vehicle group designation or passenger indorsement without a person licensed to operate a CMV occupying a seat beside him or her during a driving skills test. The bill would delete this provision.

Vehicle Group Designation

Before operating a CMV, a person must obtain the required vehicle group designation as follows:

- A group A vehicle designation, for a combination of vehicles with a gross combination weight rating of at least 26,001 pounds, including a towed vehicle with a gross vehicle weight rating over 10,000 pounds. A person with a group A designation also may operate a group B or C vehicle without taking another test.
- A group B designation, for a vehicle with a gross vehicle weight rating of at least 26,001 pounds. A person with a group B designation may operate a group C vehicle without taking another test.
- A group C vehicle designation and a hazardous material or passenger vehicle indorsement, for a vehicle with a gross vehicle weight under 26,001 pounds, or a vehicle with a gross vehicle weight rating under 26,001 pounds towing a trailer or other vehicle and carrying hazardous materials on which a placard is required under Federal regulations (49 CFR parts 100 to 199), or designed to transport at least 16 passengers, including the driver.

If a person operates a group B passenger vehicle while taking his or her driving skills test for a P (passenger) indorsement, he or she is restricted to operating only group B or C passenger vehicles under that P indorsement. The bill specifies that a person operating a group B school bus while taking his or her driving skills test for an S (school bus) indorsement would be restricted to operating only group B or C school buses under that S indorsement.

Similarly, if a person operates a group C passenger vehicle while taking the test for a P indorsement, he or she may operate only group C passenger vehicles under that P indorsement. The bill specifies that a person who operated a group C school bus while taking his or her test for an S indorsement

would be restricted to operating only group C school buses under the S indorsement.

Under the bill, effective October 1, 2004, a person who did not currently possess a P indorsement would have to procure the appropriate vehicle group designation, pass the knowledge tests for the P and S indorsements, and procure those indorsements under the Code before operating a school bus designed to transport at least 16 passengers. An applicant for an S vehicle indorsement would have to take a driving skills test in a school bus designed to transport at least 16 passengers, including the driver, that represented the same type of vehicle that the applicant intended to operate as a school bus.

Effective October 1, 2005, a person who currently possessed a P indorsement would have to procure the appropriate group vehicle designation, pass the knowledge test for an S indorsement, and procure an S vehicle indorsement under the Code before operating a school bus designed to transport at least 16 passengers. An applicant for an S vehicle indorsement would have to take a driving skills test in a school bus designed to transport at least 16 passengers that represented the same type of vehicle that he or she intended to operate as a school bus.

Until September 30, 2005, the SOS could waive the driving skills test for an applicant for an S indorsement if the applicant certified, and the SOS verified, that during the two-year period immediately prior to applying for the school bus indorsement the applicant met all of the following conditions:

- The applicant held a valid driver license with a vehicle group designation and a P indorsement.
- The applicant had not had an operator's, chauffeur's, or CMV driver license suspended, revoked, denied, or canceled.
- The applicant had not been disqualified by the U.S. Secretary of Transportation from operating a CMV.
- The applicant had not been convicted of any disqualifying offense listed in Federal regulations 49 CFR 385.51(b) while operating a non-CMV that would be a disqualifying offense if the applicant had committed the offense while operating a CMV.
- The applicant had not had more than one conviction for a serious traffic violation as

defined in 49 CFR 383.51 while operating any type of motor vehicle.

- The applicant had not had any conviction for a violation of any State or local motor vehicle traffic control law involving a vehicle accident and had not been found at fault in a vehicle accident, except for parking violations.
- The applicant had been regularly employed as a school bus driver for the past two years and, for those two years, had operated a school bus representing the type of school bus that the applicant intended to operate, and the applicant provided satisfactory evidence of that employment to the SOS.

(49 CFR 385.51(b) prescribes the disqualification period for operating a CMV while under the influence of alcohol or a controlled substance, or with a BAC of at least 0.04; refusing to take an alcohol test; leaving the scene of an accident; using a CMV to commit a felony; driving a CMV with a revoked, suspended, or canceled license; or causing a fatality through negligent operation of a CMV. Under 49 CFR 383.51, a serious traffic violation includes driving at least 15 miles per hour above the speed limit; driving recklessly; making improper or erratic lane changes; following the vehicle ahead too closely; violating a state or local law relating to motor vehicle traffic control arising in connection with a fatal accident; driving a CMV without obtaining a CDL; and driving a CMV without a CDL in the person's possession, or without the proper class of CDL and/or the proper endorsements.)

Vehicle Group Designation/Indorsement Denial

The Code prohibits the Secretary of State from issuing a vehicle group designation or indorsement to an applicant under certain circumstances. The SOS may not issue the designation or indorsement if the applicant was convicted of or incurred a bond forfeiture in relation to a six-point violation as provided in Section 320a in the immediately preceding 24 months; or a violation of Section 625(3) or former Section 625b or a substantially corresponding local ordinance in the immediately preceding 24 months. Under the bill, the six-point violation of Section 320a would have had to occur while the applicant was operating a CMV; the violation of Section 625(3) or former Section 625b or a local ordinance,

could have occurred in any type of motor vehicle. (Currently, the violation of Section 625(3) or former Section 625b must occur in a CMV.)

(Under Section 320a, six points are assigned for manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle, ORV, or snowmobile; for committing a moving violation for which three points are assigned and causing injury to or the death of a person working in a work zone; committing a moving violation with criminal penalties and causing injury to or the death of a person operating an implement of husbandry on a highway; and failing to slow down or move to an adjacent lane upon approaching an stationary authorized emergency vehicle and causing injury to or the death of a police officer, firefighter, or other emergency response personnel; and for various violations involving operating a motor vehicle, ORV, or snowmobile while under the influence alcohol or a controlled substance.

Section 625(3) prohibits a person from operating a vehicle while visibly impaired due to the consumption of alcohol or a controlled substance.)

The bill also would prohibit the SOS from issuing, renewing, or upgrading the designation or indorsement if the U.S. Secretary of Transportation had disqualified the applicant from operating a CMV.

License Extension

Under the Code, an operator's license expires on the person's birthday in the fourth year following the date of issuance of the license. A person may apply for an extension of his or her driving privileges if he or she is out of state on the expiration date. Currently, the extension may extend the license for 90 days or within two weeks after the applicant returns to Michigan, whichever is first. The bill would increase the extension period to 180 days, or within two weeks after the applicant returned to Michigan.

The Code also allows a person who will be out of state for more than 90 days beyond the license expiration date to apply for a two-year extension. Under the bill, a person instead could apply for a four-year renewal of his or her driving privileges.

License Restrictions

The Code requires the Secretary of State to suspend the license of a person who violates Section 625 or 625m, but allows the SOS to issue a restricted license during the suspension, subject to certain conditions. (Section 625 deals with operating a motor vehicle while intoxicated or visibly impaired. Section 625m pertains to operating a CMV with a BAC of between 0.04 and 0.08.) The Code prohibits the SOS from issuing a restricted license that would permit the person to operate a CMV that transports hazardous material in amounts requiring a placard under the hazardous materials regulations, 49 CFR parts 100 to 199. The bill would delete the reference to the transport of hazardous materials and prohibit the SOS from issuing to a person a restricted license that would permit him or her to operate any CMV.

Suspension & Revocation Period

Under the Code, a person's license must be suspended for 120 days if he or she is convicted of or found responsible for certain offenses arising from separate incidents within 36 months while operating a CMV. The bill would add to these offenses operating a CMV in violation of a suspension, revocation, denial, or cancellation that was imposed for previous violations committed while operating a CMV; and causing a fatality through the negligent or criminal operation of a CMV, including the crimes of motor vehicle manslaughter, motor vehicle homicide, and negligent homicide.

The Code requires a person's license to be revoked for at least 10 years and until the person is approved for the issuance of a vehicle group designation if he or she is convicted of or found responsible for certain violations. The bill instead would require that the person's license be revoked for life, but with eligibility for reinstatement after at least 10 years and until he or she was approved by the SOS for the issuance of a vehicle group designation, and also add the following offenses to these provisions:

- Two violations of operating a CMV in violation of a suspension, revocation, denial, or cancellation that was imposed for previous violations committed while operating a CMV.

- Two violations of causing a fatality through the negligent or criminal operation of a CMV, including the crimes of motor vehicle manslaughter, motor vehicle homicide, and negligent homicide.

Definition of "Serious Traffic Violation"

The bill would revise the definition of the term, which currently includes a traffic violation that occurs in connection with an accident in which a person died, careless driving, excessive speeding as defined in Federal regulations, improper lane use, and following too closely, or any other serious traffic violation as defined in 49 CFR 383.5 or as prescribed in the Code. The bill would add to the definition the following:

- Driving a CMV without obtaining any vehicle group designation.
- Driving a CMV without possessing an operator's or chauffeur's license (unless the person, by the date he or she was to appear in court or pay a fine, provided proof to the court that he or she held a valid vehicle group designation and indorsement on the date the citation was issued).
- Driving a CMV while in possession of an operator's or chauffeur's license that had a vehicle group designation but did not have the appropriate designation or indorsement required for the specific vehicle group being operated or the passengers or type of cargo being transported.

Violation Committed in a Noncommercial Motor Vehicle

Effective October 1, 2005, a conviction, bond forfeiture, or civil infraction determination, or notice that a court or administrative tribunal had found a person responsible while he or she was operating a non-CMV, would count against a CDL holder the same as if he or she had been operating a CMV at the time of the following violations of State law, a substantially corresponding local ordinance, or a substantially corresponding law of another state or out-of-state jurisdiction:

- Operating a vehicle while intoxicated or visibly impaired.
- Suspension for a refusal to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining

the amount of alcohol or the presence of a controlled substance or both in his or her body as required by a law or local ordinance of Michigan or another state.

- Leaving the scene of an accident.
- Using a vehicle to commit a felony.

The bill specifies that, for the purposes of this provision, a non-CMV would not include a recreational vehicle used off-road.

Failure to Appear

The bill would require the Secretary of State immediately to suspend the operator's and chauffeur's license of a person licensed to operate a CMV, or a person who operated a CMV without a proper license, if he or she failed to answer an out-state citation, or a notice to appear in a court or an authorized administrative tribunal for a violation reportable to the SOS, or failed to comply with an order or judgment under any of those circumstances, including paying all fines, costs, fees, and assessments. The SOS immediately would have to notify the person of the suspension by regular mail at the person's last known address. The suspension would remain in effect until the SOS was notified by the court or authorized administrative tribunal of the other state that the person had answered that citation or notice to appear or had paid the fine or cost. Upon being informed of a person's failure to appear or comply, the SOS could not issue a license to or renew a license for the person until the court or authorized administrative tribunal of the other state informed the SOS that the person had resolved all outstanding matters regarding the notices, orders, or citations.

The SOS could not suspend the person's license if he or she failed to appear in response to a citation issued for, or failed to comply with an order or judgment involving, the parking or standing of a vehicle.

Reporting to the Secretary of State

The Code requires each municipal judge and each clerk of a court of record to keep a full record of every case in which a person is charged with or cited for a violation of the Code or a substantially corresponding local ordinance regulating the operation of vehicles, and offenses for which points are assessed pertaining to the operation of ORVs or snowmobiles. The bill would require the

municipal judge or court clerk to prepare and forward to the SOS an abstract for the court record within five days after a conviction, forfeiture of bond, or civil infraction determination. Currently, the judge or clerk has 14 days to do so. The Code also requires the clerk to forward to the SOS an abstract of the court record upon a person's conviction for specified violations. The bill would include a violation listed as a disqualifying offense under the Federal motor carrier safety regulations (49 CFR 383.51).

Under the Code, the court may not submit, and the SOS must discard and may not enter on the master driving record, an abstract for a conviction or civil infraction determination for particular violations. The bill would include among these violations driving a CMV without an operator's or chauffeur's license in possession if, before the court appearance date or date fines were to be paid, the person submitted proof to the court that he or she held a valid CDL on the date the citation was issued.

The Code requires the SOS to discard and not enter on the master driving record an abstract for a bond forfeiture that occurred outside Michigan, unless the out-of-state bond forfeiture is for an offense that occurred in connection with the operation of a CMV. The bill would delete this provision and instead require the SOS to enter on the master driving record an abstract for a conviction as defined in the bill that occurred outside this State in connection with the operation of a CMV or for a conviction of a person licensed as a CMV driver.

The bill also would prohibit a court from taking under advisement an offense committed by a person while operating a CMV, or by a CDL holder while operating a non-CMV, for which the Code requires a conviction or civil infraction determination to be reported to the SOS. A conviction or civil infraction determination could not be masked, delayed, diverted, suspended, or suppressed by a court. A conviction or civil infraction determination immediately would have to be reported to the SOS in accordance with the Code.

Section 314b

The bill would repeal Section 314b of the Code. That section allows the Secretary of

State to issue a two-year license when a licensed driver is charged in the 24 months before the expiration date of his or her license with a total of 12 or more points as provided in Section 320a; has his or her license suspended or revoked for a reason other than failing to answer a citation or notice to appear in court, failure of a judgment debtor to pay an installment ordered by a court, or delinquent payment of a vehicle fee or tax, in the 36 months immediately preceding the expiration date; or was convicted of any six-point violation, operating while visibly impaired, or a violation of former Section 625b in the 36 months before the expiration date.

Other Provisions

The bill would allow the SOS to check an applicant's driving record through the NDR and the CDLIS before issuing a license under the following circumstances:

- A renewal by mail of an operator's or chauffeur's license.
- An application for an operator's or chauffeur's license from a person who does not hold a valid, unrevoked license at the time of the application.
- A duplicate or correction of a license if the original license is lost, destroyed, mutilated, or becomes illegible.
- The extension or renewal of driving privileges of a person who expects to be out of the State beyond the expiration date of his or her license.

Under the Code, an application for an operator's or chauffeur's license must contain the applicant's social security number, to the extent required to comply with Federal law. The Code prohibits the SOS from disclosing an applicant's social security number to another person except for specified purposes. The bill would add to those purposes programs administered by the SOS.

Under the Code, a restricted license must permit the person to whom it is issued to drive under certain circumstances, such as to and from the person's residence and work location. The bill would require that a restricted license also allow a person to take any driving skills test required by the SOS.

The bill would prohibit the SOS or a court from issuing a restricted license to a person

to operate a CMV if a vehicle group designation were required to operate that vehicle.

The Code prohibits a person from equipping or operating a motor vehicle with a television viewer, screen, or other means of visually receiving a television or video broadcast that can be viewed by or reflected to the driver. The prohibition does not apply to a motor vehicle equipped with a video display to monitor the rear view of the vehicle if the monitor is activated only when the vehicle is motionless or in reverse gear. The bill would retain this exemption, but specifies that the video display would have to be deactivated within 15 seconds after the transmission was shifted out of reverse gear.

MCL 257.8a et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would bring Michigan into compliance with the Motor Carrier Safety Improvement Act; enhance record-sharing between various State departments, other states, and the court system; and help ensure that only qualified, safe drivers operate CMVs on the nation's roads. The State faces the loss of millions of dollars in Motor Carrier Safety Assistance Program funds and Federal aid highway funds if the safety provisions of the Federal law are not incorporated into State statute.

Commercial driver's license holders should be held to a higher standard of safety than what applies to people who do not earn a living by operating large, heavy vehicles or transporting passengers. Although driving convictions that occur in a private automobile generally do not prevent people in other professions from earning a living, CDL holders are professional drivers and should not engage in unsafe behavior while driving any type of vehicle. According to the Motor Carrier Safety Administration, all serious traffic violations committed by a CDL holder in a non-CMV should carry the same penalties as CMV violations because this type of violation consistently has contributed to crashes and fatalities.

Additionally, the bill would require the SOS to maintain increased conviction information on an individual's driving record and report conviction information to a nonresident's home state; and would prohibit a court from masking, delaying, diverting, suspending, or suppressing a conviction or civil infraction determination. These enhanced record-keeping and information coordination requirements, along with the increased suspension and revocation penalties, would help prevent unsafe CMV drivers from operating on the nation's highways and jeopardizing other motorists.

Also, for a person wishing to drive a school bus, the bill would require a separate S indorsement in addition to the P indorsement required for passenger vehicles. A person would have to pass both a knowledge and a skills test to obtain an S indorsement. These new requirements would contribute to the safer operation of school buses. Furthermore, the bill contains a "grandfather" clause for people who could demonstrate to the SOS that they already had several years' experience driving a school bus and met safety requirements, which would mitigate the burden on the State of testing all school bus drivers for the new indorsement.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would bring the State into compliance with the Federal Motor Carrier Safety Improvement Act of 1999 to avoid loss of Federal funds. Federal sanctions include the withholding of Motor Carrier Safety Assistance Program funds (of which the State receives \$6.7 million) and the withholding of 5% of certain Federal highway apportionments. Second and subsequent years of noncompliance would result in 10% penalties. Based on FY 2003-04 Federal apportionments, the 5% penalty would equal \$14.3 million, and the 10% penalty for subsequent years of noncompliance would be \$28.6 million.

The Department of State would incur programming costs to implement provisions of the bill. The Department estimates one-time costs of \$900,000 and ongoing costs of \$200,000.

Fiscal Analyst: Bill Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.