



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4469 (as reported without amendment)
House Bill 4470 (Substitute S-1 as reported)
Sponsor: Representative John Gleason (H.B. 4469)
Representative Philip LaJoy (H.B. 4470)
House Committee: Transportation
Senate Committee: Transportation

Date Completed: 4-28-05

RATIONALE

Under Michigan law, there are several ways in which an individual may document his or her wishes regarding organ and tissue donation upon his or her death. An individual may do so in a will, advance directive, durable power of attorney, or living will. Individuals also may sign the Michigan Organ and Tissue Donor Registry, which is maintained by Gift of Life Michigan, the organization designated by the Federal government as the State's organ procurement agency. Individuals may register with Gift of Life on the organization's website, or by fax or mail. In addition, a driver license or official State personal identification card containing a statement that the licensee or cardholder is an organ and tissue donor, along with the signature of the person and at least one witness, constitutes a document of gift.

Legislation was enacted in 1998 to require the Secretary of State (SOS), in conjunction with the issuance of an official State identification card or driver's license, to provide written information about the Registry and an individual's right to make an anatomical gift under the Public Health Code, and give individuals an opportunity to register as organ donors. To meet this requirement, the SOS includes an Organ and Tissue Donor Registry card with all license and ID card renewal mailings. The SOS must forward the information for a person indicating a desire to register to Gift of Life within 10 days.

Some people believe that a clearly identifiable symbol on the front of an

individual's driver's license, rather than the current statement, would make it easier for medical workers to recognize that the licensee desires to be an organ donor. It also has been suggested that requiring the SOS to provide Gift of Life with electronic access to records of people who wish to participate in the Registry would lead to a more efficient and effective organ donation process.

CONTENT

House Bill 4469 would amend the Public Health Code to provide that a driver's license or State ID with a heart insignia on the front would constitute a document of anatomical gift; and specify that an anatomical gift made according to a will or document of gift would be irrevocable regardless of the desires of the deceased's next of kin.

House Bill 4470 (S-1) would amend the Michigan Vehicle Code to do the following:

-- Require the Secretary of State, in conjunction with the application for a driver's license (instead of with the issuance of a license, beginning January 1, 2007) to give the applicant information explaining the right to make an anatomical gift and describing the Organ, Tissue, and Eye Donor Registry, and an opportunity to have his or her name placed on the Registry.

- **Require the SOS, beginning January 1, 2007, to maintain a record of an individual who indicated a willingness to have his or her name placed on the Registry.**
- **Require the SOS to maintain the Registry in a manner that provided electronic access, including the transfer of data to the State's Federally designated organ procurement agency (Gift of Life Michigan).**
- **Prohibit the SOS from charging a duplicate driver's license fee to add a heart insignia indicating that a person was an organ donor.**
- **Include violations that occurred in another country in a provision preventing the issuance of a driver's license for previous moving violations.**

The bills are tie-barred to each other and to House Bill 4082 and Senate Bill 301. House Bill 4082 would amend the Michigan Vehicle Code to require the driver's license of an organ donor to contain a heart insignia on the front, and require the SOS to ask each licensee if he or she agreed to participate in the Registry, beginning January 1, 2007. Senate Bill 301 proposes similar amendments to Public Act 222 of 1972, which provides for an official State personal ID card. House Bills 4469 and 4470 (S-1) are described below in further detail.

House Bill 4469

Under Part 101 of the Public Health Code, an individual who is at least 18 years old and of sound mind may make a gift of all or a physical part of his or her body, effective upon his or her death, to any of the following:

- Any hospital, surgeon, or physician for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation.
- Any accredited medical or dental school, college, or university for education, research, advancement of medical or dental science, or therapy.
- Any bank or storage facility for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation.
- Any specified individual for therapy or transplantation.

- Any approved or accredited school of optometry, nursing, or veterinary medicine.

Under Part 101, a State ID card or driver's license containing a statement that the card holder or licensee is an organ and tissue donor, along with the signature of the holder or licensee and at least one witness, constitutes a document of gift. Under the bill, beginning January 1, 2007, a State ID card or driver's license containing a heart insignia, as proposed by House Bill 4082 and Senate Bill 301, would constitute a document of gift.

Part 101 specifies that an anatomical gift made by will or by a document of gift other than a will is not revocable after the donor's death. The bill would add, "regardless of the expressed desires of the deceased donor's next of kin who may oppose the donor's organ, tissue, or eye donation".

House Bill 4470 (S-1)

Driver's License Application Requirements

The Vehicle Code requires an applicant for an operator's or chauffeur's license to supply a birth certificate attesting to his or her age, or other sufficient documents or identification as the SOS may require. The application must be made in a manner prescribed by the SOS and contain the applicant's full name, date of birth, residence address, height, sex, eye color, signature, other information required or permitted on the license under the Code, and, to the extent required to comply with Federal law, the applicant's Social Security number. Under the bill, beginning January 1, 2007, the application also would have to include the applicant's intent to be an organ donor.

Under the Vehicle Code, an applicant for a driver's license with a vehicle group designation and a hazardous material indorsement must provide his or her fingerprints that were taken by a law enforcement official or a designated representative for investigation as required by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act. Instead, under the bill, the applicant would have to provide his or her

fingerprints as prescribed by State and Federal law.

Registry & Gift Information

Currently, in conjunction with the issuance of a driver's license, the SOS must provide written information explaining the applicant's right to make an anatomical gift in the event of death under Part 101 of the Public Health Code, as well as information describing the Organ Donation Registry program maintained by Gift of Life and giving the applicant the opportunity to be placed on the Registry. The bill would delete the requirement that the information be written, and would require the SOS to provide this information in conjunction with the application for, or, until January 1, 2007, the issuance of a driver's license. The bill also would refer to the Organ, Tissue, and Eye Donor Registry rather than the Organ Donation Registry. In addition, when issuing a driver's license, the SOS currently must give an applicant the opportunity to specify on his or her card that he or she is willing to make an anatomical gift in the event of death. The bill would require this in conjunction with the application for, or, until January 1, 2007, the issuance of a license.

Organ & Tissue Donation Record

Currently, the SOS must inform an applicant for a driver's license that, if he or she indicates a willingness to have his or her name placed on the Registry, the SOS will forward his or her name and address to the Registry. Under the bill, the SOS would have to inform the applicant, instead, that the SOS would mark his or her record for the Registry.

Under the Code, if an applicant indicates a willingness to have his or her name placed on the Registry, the SOS must forward the applicant's name and address to the Registry within 10 days. Under the bill, the SOS also would have to forward the applicant's date of birth. The 10-day forwarding requirement would apply until January 1, 2007. Beginning on that date, the SOS would have to maintain a record of the individual. As currently provided, this information would be exempt from disclosure under the Freedom of Information Act. The bill also would require the SOS to maintain the Registry in a manner that provided electronic access, including the

transfer of data to Gift of Life, its successor organizations, and tissue and eye banks with limitations on the use of and access to the Registry as determined by the SOS.

Renewal Fee

Under the Code, if a driver's license is lost, destroyed, or mutilated, or becomes illegible, the licensee may apply for renewal of the license and pay an \$18 fee for a duplicate chauffeur's license or a \$9 fee for a duplicate operator's license. Additionally, for each correction of a license, the licensee must apply for renewal and pay the applicable fee. The SOS may not charge a fee, however, for a change of address or a correction required to correct a Department of State error. Under the bill, beginning January 1, 2007, the SOS also could not charge a fee to add or remove a heart insignia, as proposed by House Bill 4082.

License Denial

Under the Code, the SOS may not issue a driver's license to a person who has been convicted of, has received a juvenile disposition for, or has been determined responsible for at least two moving violations under a Michigan law, a substantially corresponding local ordinance, or a substantially corresponding law of another state, within the preceding three years, if the violations occurred before the person was issued an original license in Michigan or another state. Under the bill, the SOS also could not issue a license if the violations occurred before the person was issued an original license in another country.

MCL 333.10104 (H.B. 4469)
257.303 et al. (H.B. 4470)

BACKGROUND

According to Gift of Life Michigan's website, the organization is a full-service organ recovery organization, certified by Medicare and designated by the Centers for Medicare and Medicaid Services, that acts as the intermediary between donors, physicians, and hospital staff, and provides all services necessary for organ, tissue, and eye donation and transplantation. The Registry is a confidential database that is available to authorized procurement-group personnel and hospital staff 24 hours per day, seven days per week. Federal regulations require

hospital staff to contact Gift of Life upon every death that occurs in a hospital to determine whether the deceased is a registered organ donor.

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

According to Gift of Life, as of April 1, 2005, there were 2,633 people waiting for life-saving organ transplants in Michigan. Since the beginning of the year, 46 people have died waiting for transplants. Due to the shortage of organs, it is critical that people document their wishes to donate in the event of death. The bills, along with House Bill 4082 and Senate Bill 301, would help save lives by making organ donors more readily identifiable, and improving the efficiency of the registration process.

Currently, a person may sign the back of his or her driver's license, and have it signed by a witness, to indicate that he or she wishes to be an organ donor. Over time, however, the ink can wear off or become smudged, rendering the information illegible. Additionally, in the event of an emergency, medical staff might not check the back of a person's license as they focus on trying to save his or her life. By requiring a heart insignia to be placed on the front of the driver's license, House Bill 4082 would make it easier for medical personnel to identify an organ donor and would increase the likelihood that the person's wishes will be carried out.

House Bill 4770 (S-1) further would improve the efficiency of the system by requiring the SOS to maintain organ donor information in a manner that allowed Gift of Life to gain access to it electronically. It is not guaranteed that a person's driver's license, will, or other document of gift will be available to hospital staff at the time of death, and family members might override an individual's stated intent if the document is not present. Thus, it is essential that a person who wishes to make an anatomical gift document that wish on the Registry. The Registry is accessible to hospitals around the clock, making it the most timely and convenient means for a person to document his or her wishes and ensure that

they are followed. By requiring the SOS to provide an electronic data transfer mechanism, the bill would help save money and reduce the occurrence of errors.

Finally, the requirement under House Bill 4082 and Senate Bill 301 that the SOS ask every licensee or State ID holder whether he or she would like to participate in Michigan's Organ and Tissue Donor Registry could increase public awareness. Apparently, even though the SOS mails registration cards with every driver's license and State ID renewal notice, many people do not fill them out or even read them. According to a representative of Gift of Life Michigan, the proposed requirement, together with House Bills 4469 and 4470 (S-1), could increase registration from the current level of eight percent of the State's population to about 25% within four years.

Legislative Analyst: Julie Koval

FISCAL IMPACT

House Bill 4469

The bill would have no fiscal impact on State or local government.

House Bill 4470 (S-1)

Programming costs would be absorbed through the Department of State's Business Application Modernization Project. Minimal costs would result from inquiry requirements regarding whether applicants or current driver's license holders wished to participate in the Registry.

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.