



**House
Legislative
Analysis
Section**

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NONRES. VIOLATOR COMPACT

**Senate Bills 385 and 386 with House
committee amendments**

Sponsor: Sen. Vern Ehlers

**Senate Committee: Transportation &
Tourism**

House Committee: Transportation

First Analysis (10-26-93)

THE APPARENT PROBLEM:

The Nonresident Violator Compact of 1977 provides a reciprocal means for member states to handle nonresidents who commit traffic violations. Generally, a state that belongs to the compact must issue a citation to a violator who is a resident of another member state, and the violator must comply with the citation or face a license suspension in his or her home state. Since this state is not a member of the compact, when Michigan law enforcement officers stop an out-of-state driver for a traffic violation, they may require the person to appear in court and post bond, rather than issuing a ticket that easily can be ignored. Conversely, Michigan drivers who violate other states' traffic laws either are treated in the same way or receive a ticket that can go unpaid. As a result, the driving records of many Michigan residents may be incomplete, and both Michigan and out-of-state drivers are frequently subject to the inconvenience of going to court. To remedy this situation, it has been suggested that Michigan join the 42 other states that belong to the compact.

In another matter, the Department of State typically releases certain information about at-fault traffic accidents and traffic violations on a person's driving record to insurers and other nongovernmental agencies. Apparently, department policy historically has prohibited the release of this information if the driver was on duty as a police officer, fire fighter, or ambulance driver when an accident occurred. Reportedly, however, the form used to report information to the department was redesigned last year, and the system for separating law enforcement-related accidents was disrupted. Some people are concerned, therefore, that the department now is releasing information that will result in insurance rate increases for officers and

other emergency personnel who are involved in on-duty accidents.

THE CONTENT OF THE BILLS:

The bills would enact, and enter Michigan into, the "Nonresident Violator Compact," and would amend the Michigan Vehicle Code to establish procedures to be followed in the event that a Michigan resident failed to comply with a traffic citation issued by another member of the Nonresident Violator Compact, or if a resident of another jurisdiction that belonged to the compact failed to comply with a traffic citation issued in Michigan. (Under the compact, a nonresident motorist must be issued a citation and cannot be required to post collateral to secure appearance, if the officer receives the motorist's personal recognizance that he or she will comply with the citation. If the motorist fails to comply, his or her home jurisdiction must initiate an action to suspend the motorist's license until satisfactory evidence of compliance is furnished.) The bills also would restate the conditions under which a resident's license may be suspended or revoked for an out-of-state violation, and would limit the release of accident information on a police officer's, fire fighter's, or ambulance driver's record (as well as data related to those who drove these vehicles as volunteers).

The bills are tie-barred and would take effect October 1, 1994.

Senate Bill 385 would adopt the Nonresident Violator Compact, which specifies that it is the policy of the party jurisdictions to:

* Seek compliance with the laws, ordinances and administrative rules and regulations relating to the

SENATE BILLS 385 AND 386 (10-26-93)

operation of motor vehicles in each of the jurisdictions.

- * Allow motorists to accept a traffic citation for certain violations and proceed on their way without delay, whether or not a motorist is a resident of the jurisdiction in which the citation was issued.

- * Extend cooperation to its fullest extent among the jurisdictions for obtaining compliance with the terms of a traffic citation issued in one jurisdiction to a resident of another jurisdiction.

- * Maximize effective use of law enforcement personnel and assist court systems in the efficient disposition of traffic violations.

The purposes of the compact are 1) to provide a means for the party jurisdictions to participate in a reciprocal program to effectuate the policies described above in a uniform and orderly manner; and 2) to provide for the fair and impartial treatment of traffic violators operating within party jurisdictions in recognition of the motorist's right of due process and the sovereign status of a party jurisdiction.

Issuance of citation. Under the compact, when issuing a citation for a traffic violation, a police officer must issue the citation to a nonresident motorist who possesses a driver's license issued by a party jurisdiction and cannot require the motorist to post collateral to secure appearance, if the officer receives the motorist's personal recognizance that he or she will comply with the terms of the citation. Personal recognizance is acceptable, however, only if not prohibited by law. If mandatory appearance is required, it should take place immediately after the citation is issued. ("Personal recognizance" means an agreement by a motorist made at the time a traffic citation is issued that he or she will comply with the terms of the citation.)

Upon a motorist's failure to comply with a citation, the appropriate official is required to report the failure to the licensing authority of the jurisdiction in which the citation was issued. Upon receiving the report, that licensing authority must send information to the licensing authority in the motorist's home jurisdiction. The licensing authority of the issuing jurisdiction need not suspend the motorist's privilege. ("Home jurisdiction" means the jurisdiction that issued the motorist's driver's license.)

The licensing authority of the issuing jurisdiction cannot transmit a report on any violation if the date of transmission is more than six months after the date on which the citation was issued, or if the date of issuance predates the most recent of the effective dates of entry for the two jurisdictions affected.

Suspension action. Upon receiving a report of a motorist's failure to comply with a traffic citation, the licensing authority of the motorist's home jurisdiction is required to notify the motorist and initiate an action to suspend the motorist's driver's license until satisfactory evidence of compliance has been furnished to the home jurisdiction's licensing authority. The compact specifies that due process safeguards will be accorded. The home jurisdiction's licensing authority is required to maintain a record of actions taken and make reports to issuing jurisdictions as provided in the compact manual.

Other laws, arrangements. The compact specifies that, except as expressly required by its provisions, nothing in it may be construed to affect the right of any party jurisdiction to apply any of its other laws relating to license to drive to any person or circumstance, or to invalidate or prevent any driver license agreement or other cooperative arrangements between a party jurisdiction and a nonparty jurisdiction.

Board of Compact Administrators. The compact provides for the establishment of a Board of Compact Administrators to administer the provisions of the compact and serve as a governing body for the resolution of all matters relating to the compact's operation. The board is composed of one representative from each party jurisdiction, to be known as the compact administrator. The compact administrator must be appointed by the jurisdiction executive and serves according to the laws of the jurisdiction he or she represents.

The compact provides for board meetings, requires it to adopt bylaws, authorizes it to accept donations and grants, and permits it to contract for or accept services. The board also is required to formulate all necessary procedures and develop uniform forms and documents for administering the compact's provisions. All adopted procedures and forms must be contained in the compact manual.

Other Provisions. The compact provides for the method of entering into and withdrawing from the

compact and the effective date of entry or withdrawal. The compact does not apply to parking or standing violations, highway weight limit violations, and violations of law governing the transportation of hazardous materials. The compact may be amended, and amendments may be initiated by any party jurisdiction. Adoption of an amendment requires endorsement of all party jurisdictions. The compact states that it is to be liberally construed so as to effectuate the purposes stated in it.

Senate Bill 386 would amend the Michigan Vehicle Code (MCL 257.35 et al.) to revise provisions governing the secretary of state's responsibility to suspend or revoke a driver's license of a resident of Michigan who violated a law of another state. The act currently provides that the secretary of state may suspend or revoke the license of a Michigan resident upon receiving notice of the person's conviction in another state of any offense in that state, or the administrative determination of the person's responsibility in another state for a violation that would be grounds for suspension or revocation if committed in this state.

The bill provides, instead, that the secretary of state could suspend or revoke the operator's or chauffeur's license of a Michigan resident upon receiving notice that there occurred in another state or jurisdiction an omission by the person or adjudication regarding the person that, if it had occurred in this state, would be grounds for the suspension or revocation of the person's license. The omissions or adjudications for which the secretary of state could suspend or revoke a person's license under this provision are as follows:

- * The person's conviction of any offense;
- * The determination of the person's responsibility in an administrative or judicial adjudication;
- * The entry of a default judgment against the person;
- * The person's failure to answer a citation;
- * The person's failure to comply with an order or judgment;
- * The determination in an administrative or judicial adjudication that the person refused to submit to a chemical test of his or her blood, breath or urine

for the purpose of determining the presence or amount of alcohol and/or a controlled substance in his or her blood as required by law.

Residents. Upon receiving notice from a foreign jurisdiction that was a member of the Nonresident Violator Compact that a resident of this state failed to answer a citation or notice to appear in a court or tribunal for a violation of a traffic law of the foreign jurisdiction, or failed to comply with an order or judgment issued for violating a traffic law of that jurisdiction by not paying fines and costs, the secretary of state would have to notify the person by first-class mail that if he or she failed to present satisfactory evidence of compliance with the citation, notice to appear, order, or judgment, to the secretary of state within 21 days after the notice was issued, the secretary of state would have to deny issuance of a driver's license to the person or suspend his or her license. If the person failed to present satisfactory evidence of compliance within the 21-day period, the secretary of state would have to take that action and notify the person. These provisions would not apply to a person who presented evidence that he or she was not the person who was issued the citation or notice to appear, or who failed to comply with the order or judgment.

The license denial or suspension would remain in effect until 1) either the foreign jurisdiction informed the secretary of state that all matters relating to the noncompliance were resolved or the person presented satisfactory evidence of compliance, and 2) the person paid to the secretary of state a \$25 driver's license reinstatement fee.

These license reinstatement fees would have to be deposited in the general fund and spent to defray the expenses incurred by the secretary of state in the following order of priority: processing the denial, suspension, and reinstatement of licenses under these provisions; and performing other compact duties.

Nonresidents. Twenty-eight or more days after a person who was a resident of a foreign jurisdiction that belonged to the Nonresident Violator Compact and who executed a personal recognizance failed to answer a citation or a notice to appear in court for violating the Michigan Vehicle Code or a substantially corresponding local ordinance, or for any matter pending, or failed to comply with an order or judgment of the court for a violation of the

act or a local ordinance, including paying all fines and costs, the court would have to give notice that if the person failed to comply within 14 days the court would notify the secretary of state. The secretary of state then would have to notify the licensing authority in the person's home jurisdiction to deny issuance of a driver's license to the person or suspend his or her license until the person answered the citation or notice to appear or complied with the order of judgment. If the person failed to do so within the 14-day period, the court would be required, within 14 days, to notify the secretary of state, who would have to notify the licensing authority of the person's home jurisdiction. The secretary of state could not send a notice after six months from the date of the citation.

These provisions would not apply to a person who was charged with, was convicted of, was determined responsible for, or had a probate court order of disposition entered for any of the following:

- * A violation that required a personal appearance;
- * A moving violation that required a mandatory license suspension or revocation;
- * An equipment violation;
- * An inspection violation;
- * A size or weight violation;
- * A transportation of hazardous waste violation;
- * A parking or standing violation;
- * A pedestrian, passenger, or bicycle violation;
- * Any other violations excluded under the compact.

Compact administrator. The governor would be required to appoint the secretary of state to serve as the compact administrator for this state to administer compact provisions in Michigan. The secretary of state would have to perform all duties necessary to implement the compact in this state.

Personal Recognizance. Currently, if a nonresident is stopped for a civil infraction traffic offense, the police officer is required to take the person's driver's license as security for his or her appearance in court and satisfaction of an order, and must issue the person a citation. In lieu of the officer's taking the license, the person may leave with the officer or court a guaranteed appearance certificate or a sum of up to \$100. After an immediate appearance

before a magistrate, the person's license must be returned if judgment is rendered for the person, if any adverse judgment is satisfied, or if the person leaves with the court a guaranteed appearance certificate or a sum of up to \$100. If the person requests a formal hearing, his or her license must be retained by the court until final resolution unless the person leaves with the court a guaranteed appearance certificate or up to \$100.

The bill would add that, if the person were a resident of a foreign jurisdiction that was a compact member and the person were licensed to operate a motor vehicle under the laws of that jurisdiction, the person could leave a personal recognizance in lieu of the officer's taking the license, after an appearance before a magistrate, or pending final resolution.

Release of Information. The Department of State would be prohibited from releasing to a nongovernmental agency information relating to an accident on the record of a driver who was a police officer, fire fighter or ambulance driver, if the accident occurred while the person was on duty and driving a motor vehicle, fire department vehicle or licensed ambulance, as applicable, in the performance of his or her duties as a police officer, fire fighter or ambulance driver. This provision would also apply to the release of such information relating to a fire fighter or emergency medical technician driving his or her personal vehicle while responding to an emergency.

HOUSE COMMITTEE ACTION:

The House Transportation Committee amended the Senate-passed versions of both bills to change their effective dates from October 1, 1993, to October 1, 1994. The committee also added language to Senate Bill 386 that would make the provision that would prohibit the release of certain accident information of an emergency vehicle driver to a nongovernmental agency apply to a fire fighter or emergency medical technician who drove his or her personal vehicle while responding to an emergency.

FISCAL IMPLICATIONS:

The Senate Fiscal Agency reports that, assuming that an estimated 27,000 individuals failed to answer citations under the provisions of the bills, the secretary of state would collect \$675,000 in fee revenue under Senate Bill 386. The agency says the cost to implement the bills would be between \$350,000 and \$400,000, and excess revenue would revert to the general fund. (5-27-93)

ARGUMENTS:

For:

Both the state and its residents would reap a number of benefits if Michigan joined the Nonresident Violator Compact. On the consumer side, Michigan residents would be spared the time and trouble of having to post collateral or go to court, and even face possible incarceration, for committing a traffic violation in another state. This procedure can disrupt family vacations, result in missed business appointments, and delay emergency visits to relatives. The same is true, of course, for nonresidents traveling in Michigan. By providing for law enforcement officers simply to issue a ticket and let the driver be on his or her way, the bills would encourage the goodwill of out-of-state drivers who violated Michigan traffic laws, which would in turn promote tourism and business transactions here, and would protect Michigan drivers traveling in other states. In addition, motorists would receive due process safeguards through the hearing and license reinstatement procedures.

At the same time, since neither Michigan nor out-of-state drivers would be free to flout traffic citations with impunity, the state would receive increased revenue from the payment of tickets by nonresident drivers, and residents' driving records would reflect their out-of-state violations. Furthermore, both courts and law enforcement officers would be relieved of violator processing procedures, and officers could devote more time to highway patrol, surveillance and apprehension.

Apparently, the states that already belong to the compact are very satisfied with the way it has operated, and the reciprocity afforded by the compact ultimately serves to promote commerce and industry among the members.

For:

Because law enforcement and other emergency services drivers are authorized, and often expected, to operate motor vehicles under critical and sometimes dangerous circumstances, they should be protected from those who seek unfairly to penalize or reprimand them through the use of accident record information. Insurance companies, for instance, might use this information to raise the automobile insurance rates they charge to such persons when they're found to have on-duty driving accidents. By providing this protection, Senate Bill 386 would ensure that law enforcement officers and emergency personnel—including those who work as volunteers in emergency situations who use their

own vehicles--could continue to perform actively and effectively on the job without fear of unjust consequences.

Response:

Preventing this information from being released to, for instance, insurance companies could allow a driver of an emergency vehicle who was at fault in an on-duty accident that occurred during a non-emergency situation to avoid having to pay higher vehicle insurance premiums that other drivers normally have to pay who are at fault in traffic accidents.

Against:

Michigan drivers should not be punished in this state for traffic tickets issued by another state, under traffic laws that could differ markedly from Michigan's. Considering the inconvenience and expense of attempting to exonerate oneself from a citation issued hundreds or thousands of miles away, many if not most people simply would pay the ticket, whether it was justifiably issued or not, rather than returning to the other state to fight it in court. Drivers paying out-of-state tickets under these circumstances should not be subjected to further penalties here in the form of a poor driving record and higher insurance rates. For the same reasons, drivers who refused to pay an out-of-state ticket should not have to suffer a suspension of their Michigan driver's license. Since some states' police officers may prey on out-of-state drivers, who are the least likely to come back and fight a ticket, imposing unmerited penalties in Michigan for violations allegedly committed in another state would be harshly unfair to Michigan drivers.

Against:

Many people share a perception that motorists are subjected to "speed traps" used to victimize out-of-state drivers. Conceivably, then, Michigan's joining the compact simply could boost collection efforts by other jurisdictions.

Response: By joining the compact, Michigan actually would be protecting its citizens, who now must face the scary prospect of going to court, and perhaps even to jail, far from home.

POSITIONS:

The Department of State supports the bill. (10-20-93)

The Michigan Trucking Association supports the bill. (10-20-93)