



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

**ELIGIBILITY REQUIREMENTS TO
GET DRIVER'S LICENSE, ID CARD**

**House Bill 5785 as passed by the House
Sponsor: Rep. Roland Jersevic**

**House Bill 5786 as passed by the House
Sponsor: Rep. Jack Horton**

Second Analysis (8-20-96)

Committee: Transportation

THE APPARENT PROBLEM:

To apply for a Michigan driver's license or personal identification card, a person must be a resident of the state and show identifying documents to confirm his or her identity. The Michigan Vehicle Code defines a resident as a person who "resides in a settled or permanent home or domicile with the intention of remaining in this state." Obtaining employment in the state is presumed to show intention of remaining. According to a recent Michigan attorney general opinion, Michigan law does not require an applicant for a driver's license to be a lawful resident of the United States, nor does the federal Immigration and Nationality Act of 1952 preclude an illegal alien from becoming a resident of a state. Therefore, the Michigan Department of State may not refuse a driver's license to an otherwise qualified person just because he or she is an illegal alien. According to the U.S. Census Bureau, there are approximately 53,000 illegal aliens residing in Michigan. Legislation has been proposed to restrict eligibility for driver's licenses and state personal I.D. cards to lawful residents only.

THE CONTENT OF THE BILLS:

Currently, both the Michigan Vehicle Code (which governs issuance of the official state driver's license) and Public Act 222 of 1972 (which provides for the issuance of the official state personal identification card) generally require a person to be a resident of the state in order to apply for and qualify for an official driver's license or state ID card. The bills would amend the acts to specify that someone would have to be either a U.S. citizen or legal alien as well as a Michigan resident to obtain a driver's license or ID card. An application for a driver's license or I.D. card would have to require the applicant to certify that he or she is either a U.S. citizen

or an alien lawfully present in the U.S. The application would also have to inform the applicant that a false certification would be punishable as a felony (driver's license) or misdemeanor (I.D. card) and that if he or she were an illegal alien, this could be reported to the U.S. Immigration and Naturalization Service.

In addition, both acts authorize the secretary of state to require someone applying for a driver's license or ID card to produce one or more official documents which show the person's age and other identifying information. Under the bills, if the secretary of state had reasonable cause to believe an applicant had provided false documentation and was an illegal alien, it could report this to the U.S. Immigration and Naturalization Service.

Further, House Bill 5785 would also clarify that the provisions of Public Act 205 of 1996 -- which would authorize the secretary of state to redesign the official driver's license to store a person's "image" (rather than a photo) electronically -- would take effect January 1, 1997.

House Bill 5785 would amend the vehicle code (MCL)257.51a and 257.307, and House Bill 5786 would amend Public Act 222 of 1972 (MCL 28.291).

FISCAL IMPLICATIONS:

According to the Secretary of State's Office, the fiscal impact to the state should be minimal if the effective date of the bill coincided with the printing of new applications, as opposed to having to reprint applications currently in use. In addition, the House Fiscal Agency reports that there could be a minimal cost to the state due to expanded issuance of identification cards. (5-17-96)

House Bills 5785 and 5786 (8-20-96)

ARGUMENTS:

For:

According to the attorney general, the secretary of state's office cannot refuse a driver's license or I.D. card to an illegal alien as long as the person meets residency and other qualifying requirements because there is nothing currently in state statute that first requires a person to be a lawful resident of the United States under the federal Immigration and Nationality Act of 1952. At a time when people are entering the country illegally at record rates, this is simply not acceptable. To continue to allow the issuance of driver's licenses and I.D. cards to illegal aliens sends a message that Michigan is ready to reward those who enter the country illegally. With the U.S. Census Bureau estimating that 53,000 illegal aliens currently reside in Michigan, this practice of licensing illegal aliens could pose significant problems. For instance, though a driver's license or I.D. card is not proof of a person's U.S. residency status, it often is taken as such. This practice also can encourage unscrupulous employers to hire licensed illegal aliens in an attempt to pay lower wages, thus taking jobs away from those who are U.S. citizens or have legal alien status.

Against:

House Bills 5785 and 5786 would attempt to stop the issuance of Michigan driver's licenses and I.D. cards to illegal aliens by excluding them from the definition of state resident. However, the December 1995 attorney general opinion previously referred to stated that current controlling case law has established that illegal aliens are protected by the Equal Protection Clause of the Fourteenth Amendment from arbitrary treatment under state laws, that the power to classify aliens resides with the U.S. Congress and not with the states, and that illegal entry into the U.S. does not prohibit a person from meeting state residency requirements. Therefore, the bill may not achieve its purported intent.

Against:

According to agencies that work with legal immigrants, correctly establishing a person's status as a legal or illegal alien is very difficult. Many legal aliens currently report being rejected for driver's licenses because the secretary of state's office cannot verify their "A" numbers with the Immigration Document Verification Facility within the U.S. Department of Justice. The Immigration Document Verification Facility database operates as a national clearinghouse for other agencies to verify an immigrant's U.S. residency status. Reportedly, it can take this facility from four to six months to place information about a person into the databank. During this four- to six- month window, a legal immigrant may appear to be illegal, and, under the

bills' provisions, could unjustly be denied a driver's license or state I.D. card. Even more serious is the possibility of being wrongly charged with presenting what would then be construed as false documentation. Should the secretary of state's office report such a person to the Immigration and Naturalization Services as provided under the bills, legal immigrants could also be unfairly subjected to lengthy and even costly examinations by INS officials in an effort to once again prove that they do indeed have legal U.S. residency status.

POSITIONS:

The Secretary of State's Office supports the bill. (5-17-96)

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.