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BILL ANALYSIS



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Senate Bills 776 and 777 (as enrolled)
Sponsor: Senator Michael J. Bouchard
Senate Committee: Financial Services
House Committee: Insurance

PUBLIC ACTS 287 and 288 of 1995

Date Completed: 8-20-96

CONTENT

Senate Bill 776 amended the Michigan Vehicle Code to create a private insurance verification board to provide vehicle insurance verification to the Secretary of State for renewal of motor vehicle registrations; require the Secretary of State to accept, as proof of insurance, a transmission of a vehicle registration applicant's vehicle identification number (VIN); prohibit the Secretary of State from renewing, replacing, or transferring the registration of a vehicle for which the owner failed to have or produce proof of insurance, until the owner shows proof of a prepaid, noncancelable policy and pays a \$50 fee; and add or increase certain fees and fines relating to failure to have or produce evidence of insurance.

Senate Bill 777 amended the Insurance Code to allow an insurer to issue a noncancelable, nonrefundable six-month prepaid automobile insurance policy in order for an insured to meet the Vehicle Code's requirements for vehicle registration reinstatement after cancellation for failure to have insurance; require the Secretary of State to accept, as proof of automobile insurance, a transmission of an insured vehicle's VIN; and require that all insurers who choose to provide proof of insurance by VIN to the Secretary of State do so through the insurance verification board or an organization selected by the board.

The bills were tie-barred to each other.

Senate Bill 776**Registration Renewal**

The Michigan Vehicle Code provides that application for renewal of a vehicle registration must be made by the owner upon proper application and payment of the registration fee for the vehicle. Every application made by mail or in person must be accompanied by proof of vehicle insurance in a form determined by the Secretary of State. Under the bill, notwithstanding this requirement, the Secretary of State must accept as proof of vehicle insurance a transmission of the applicant's vehicle identification number only for an insured vehicle for which vehicle registration is sought. The Secretary of State may determine in what format he or she will receive VIN information. The transmission to the Secretary of State of a VIN is proof of insurance for motor vehicle registration purposes only and is not evidence that a policy of insurance actually exists between an insurer and an individual. Vehicle identification numbers received by the Secretary of State under these provisions are confidential, are not subject to the Freedom of Information Act, and may not be disclosed to any person except pursuant to a court order in connection with a claim or fraud investigation or prosecution.

Insurance Verification Board

The bill created a private insurance verification board to provide vehicle insurance verification to the Secretary of State for renewal of motor vehicle registrations. The board consists of seven directors, including five who represent private insurers in the State, one who represents the general public and is not employed by the insurance industry or the State, and one who represents independent insurance agents in the State. The Secretary of State must appoint both the initial and successor directors representing the general public and independent agents. The five initial directors representing private insurers must be appointed by the Insurance Commissioner with recommendations made by the insurance industry in this State, and must include two directors representing the largest share of the automobile insurance market in Michigan and three who are generally representative of small and medium automobile insurers. Successor directors representing private insurers must be selected by the insurers who choose to provide proof of vehicle insurance to the Secretary of State by VIN, and must include two directors representing the largest share of the automobile insurance market in the State and three representing small and medium insurers. The two insurers representing the largest share of the market may serve only if they are participating in the program to provide proof of vehicle insurance to the Secretary of State by VIN. Directors are to serve for one-year terms. The board is subject to the Open Meetings Act .

The insurance verification board may select one organization upon those terms established by the board for the purpose of collecting proof of vehicle insurance information by VIN. The board or the organization selected by it must make this information available to the Secretary of State for motor vehicle registration purposes in the format required by the Secretary of State. The board must establish a plan providing for the confidentiality of the proof of vehicle insurance information provided by insurers.

The board or the organization selected by it had to be operational and able to transmit to the Secretary of State by June 1, 1996, proof of vehicle insurance by VIN in the format required by the Secretary of State at the request of any licensed automobile insurer in Michigan who chooses to provide proof of insurance in this manner.

The board must establish a plan of operation providing for the assessment of the board's start-up and annual costs among the insurers who choose to provide proof of vehicle insurance by transmission of VIN. The board may not assess more or spend more than \$150,000 in start-up costs and not more than \$100,000 in annual costs to implement these provisions. The \$100,000 annual cost amount must be adjusted annually to reflect the annual average percentage increase or decrease in the Detroit Consumer Price Index.

Proof of Insurance upon Officer's Request

The Code provides that the owner of a motor vehicle who operates or permits the operation of the vehicle upon the highways of this State, or the vehicle operator, must produce, upon the request of a police officer, evidence that the vehicle is insured under Chapter 31 of the Insurance Code. An owner or operator who fails to produce that evidence is responsible for a civil infraction. The bill also provides that someone who fails to have motor vehicle insurance as required under Chapter 31 is responsible for a civil infraction.

Under the Vehicle Code, if a person is determined to be responsible for a violation of this proof-of-insurance requirement, the court may require the person to surrender his or her driver's license unless proof that the vehicle has insurance meeting the Insurance Code's requirements is submitted to the court. The bill specifies that if the person submits this proof of insurance, the court

must assess a \$25 fee in addition to the civil fine and costs provided for in the Vehicle Code. (Previously, a person who submitted proof of insurance had to pay a \$10 service fee.) The bill also provides that the person cannot be required to pay a replacement license fee. Under the Code, if the court requires the license to be surrendered, the court must order the Secretary of State to suspend the person's license. In addition, under the bill, the court must immediately destroy the license and forward to the Secretary of State an abstract of the court record. (Previously, the court had to forward the surrendered license and a certificate of civil infraction to the Secretary of State.)

The bill provides that if a vehicle owner or operator is determined to be responsible for failing to provide proof of insurance upon the request of a police officer, the court must notify the Secretary of State of the VIN and the year and make of the motor vehicle being operated at the time of the violation. The notification must be made on the abstract or on a form approved by the Supreme Court Administrator. Upon receipt, the Secretary of State must immediately enter this information in the Department of State's records. The Secretary of State may not renew, transfer, or replace the registration plate of the vehicle involved in the violation or allow the purchase of a new plate for that vehicle until the owner meets the requirements described below, or unless the vehicle is transferred or sold to a person other than the owner's spouse, mother, father, sister, brother, or child.

If a court has notified the Secretary of State of a VIN as provided above, and the owner had not secured proof that the vehicle involved in the violation is currently insured, the Secretary of State may not renew, replace, or transfer the vehicle's registration plate or allow the purchase of a new plate for the vehicle until the owner or the owner's representative appears at a branch office and does both of the following:

- Shows a certified statement from an automobile insurer on a standard form prescribed by the Insurance Commissioner that the vehicle is currently insured under a prepaid noncancelable policy for a period of at least six months.
- Pays a fee of \$50 in addition to any other fee required by law, of which \$25 must be allocated to the Secretary of State to defray the costs of administering these provisions.

The Secretary of State may cancel a vehicle's registration if he or she receives notice that a court has determined that a vehicle involved in the violation was not insured at the time of registration, or receives notice that a court has determined that the owner or the owner's representative presented a certificate of insurance that was forged, altered, fraudulent, or counterfeit when insurance was required by the Code. Before a cancellation occurs, the person who will be affected by it must be given notice and an opportunity to be heard.

A vehicle owner or operator who knowingly produces false evidence under these provisions is guilty of a misdemeanor, punishable by imprisonment for up to one year and/or a fine of up to \$1,000. (Previously, the maximum fine was \$500.)

The bill deleted a provision under which the court was required to waive a civil fine and costs upon receiving certification by a law enforcement agency that the defendant, before the appearance date on the citation, had produced evidence that the vehicle was insured on the date the citation was issued.

Senate Bill 777

The Insurance Code provides that, with certain exceptions, a policy of casualty insurance, including all classes of motor vehicle coverage, may not be issued or delivered unless it provides that the policy may be canceled at any time at the request of the insured, in which case the insurer must refund the excess of paid premium or assessment above the pro rata rates for the expired time.

Under the bill, notwithstanding this requirement, an insurer may issue a noncancelable, nonrefundable, six-month prepaid automobile insurance policy in order for an insured to meet the registration requirements of the Michigan Vehicle Code (in cases in which the owner or operator has not provided proof of insurance upon a police officer's request and the owner has not secured proof that the vehicle is currently insured). The Insurance Commissioner must prescribe a standard certified statement that automobile insurers must use to show that a vehicle is insured under a six-month prepaid, noncancelable policy.

The Insurance Code requires an insurer, in conjunction with the issuance of an automobile insurance policy, to provide two certificates of insurance. The insurer must mark one of the certificates as the Secretary of State's copy, which must be filed with the Secretary of State by the policyholder upon applying for a vehicle registration. Under an exception created by the bill, the Secretary of State must accept as proof of vehicle insurance a transmission, in the format required by the Secretary of State, of the insured vehicle's VIN. Vehicle identification numbers received by the Secretary of State under this provision are confidential and may not be disclosed to any person except pursuant to a court order in connection with a claim or fraud investigation or prosecution. The transmission to the Secretary of State of a VIN is proof of insurance for motor vehicle registration purposes only, and is not evidence that a policy of insurance actually exists between an insurer and an individual.

All insurers who choose to provide proof of vehicle insurance to the Secretary of State as described above must do so through the insurance verification board created by Senate Bill 776 or the organization selected by the board. If the board or organization was not operational and able to transmit to the Secretary of State by June 1, 1996, or if the board or organization stops transmitting proof of vehicle insurance by VIN, an insurer who chooses to provide proof of insurance in this manner may do so directly and is not required to do so through the board or organization. The bill provides that choosing to provide proof of vehicle insurance by VIN is not a State mandate and may not be identified on the automobile insurance declarations page as a State mandate or a State-mandated assessment. Automobile insurers in Michigan may not charge their policyholders more than a sufficient amount to cover the cost of any assessment for this program.

MCL 257.227 et al. (S.B. 776)
500.3020 et al. (S.B. 777)

Legislative Analyst: S. Margules

FISCAL IMPACT

Eliminating the requirement that vehicle registration applications be accompanied by proof of vehicle insurance will allow the Department of State to implement renewals with kiosk machines, telephone and other processes to improve the efficiency of the program. Increasing the service fee (from \$10 to \$25) for restoration of driver's licenses suspended for failure to have motor vehicle insurance will result in additional revenue to cover the Department of State's costs. In 1994, 149 individuals paid that service fee. The new \$50 fee required for registration renewals, replacements, or transfers when a court determines an individual has failed to insure a vehicle also will generate additional revenue depending on the number of violations.

The bill also allows the court to assess costs when a person who has received a citation for failure to produce proof of insurance, produces proof of insurance prior to the appearance date on the citation. Previously, costs were waived. Increasing the maximum penal fine for knowingly producing false evidence of insurance from \$500 to \$1,000 also could generate additional revenue depending on actual fines assessed by the court.

Fiscal Analyst: B. 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.