

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 763 (Substitute S-1 as reported)
Senate Bill 792 (as reported without amendment)
Sponsor: Senator Dianne Byrum
Committee: Transportation and Tourism

Date Completed: 12-9-97

RATIONALE

Public Act 387 of 1996, in addition to creating a graduated driver's licensing system for teenagers under 18 years old, grants school districts the option of offering driver education programs through the schools. Until April 1, 1998, driver education courses must be conducted without charge by school districts, or by an intermediate school district at the request of a local district. (Students, of course, may choose to seek instruction through private driving schools.) After April 1, 1998, school districts will have the option of providing a driver education program, and may charge students for the program. Reportedly, many school districts already have decided to discontinue offering driver education. This means that many students throughout the State will be unable to participate in driver education programs unless they sign up with private driving schools, which likely will cause a great increase in the number of students enrolled in those schools. It has been suggested that private driver training school operators and instructors should be subject to criminal history checks, in the same way that teachers are subject to criminal history checks; that persons who have prior convictions involving sexual or physical abuse be prohibited from being driver training instructors; and that the driving records of driver training school operators and instructors be available for review by prospective customers.

CONTENT

Senate Bill 763 (S-1) would amend Public Act 369 of 1974, which provides for the licensure of driver training schools and instructors, to do the following:

- Require a license application for a driver training school or instructor to permit the Department of State to request a criminal history check on the prospective licensee

from the State Police and the Federal Bureau of Investigation (FBI).

- Prohibit the Department of State from licensing or renewing the license of a driver training school or instructor before requesting and receiving a criminal history check on the licensee.
- Prohibit a person from being a driver training school instructor if he or she had been convicted of a felony or misdemeanor involving sexual or physical abuse.
- Require the State Police criminal records division, within 30 days of receiving a request, to conduct a criminal history check and report the results to Department of State and the training school licensee.
- Prohibit the disclosure of a report, except any conviction involving sexual or physical abuse, to any person not directly involved in evaluating an applicant's qualification for licensure as a driver training school or instructor, and establish misdemeanor penalties for violating this prohibition.
- Increase license application and renewal fees, and require that the fee revenue, after administrative costs were deducted, be deposited in the Driver Education Fund.

Senate Bill 792 would amend the Michigan Vehicle Code to require driver training school operators to subscribe to the Secretary of State's commercial look-up service, and maintain nonpersonal information on their own and their instructors' driving records.

Senate Bill 763 (S-1)

Applications

Under Public Act 369 of 1974, a person may not conduct a driver training school without obtaining a license in a noncommercial and/or commercial motor vehicle classification. An application for a license to conduct a driver training school must be filed with the Department of State. The bill would require that an application include an authorization to be signed by the prospective licensee permitting the Department to request a criminal history check from the Department of State Police and the FBI.

In addition, a driver training school may not employ a person as an instructor unless he or she is licensed as an instructor. A driver training school licensee must file annually an application with the Department of State for licensing its employees as instructors. In addition to the information already required for an application, the bill would require that an application include an authorization signed by a prospective employee before being hired as a driving instructor permitting the licensee to request a criminal history check from the Department of State Police and the FBI. This would not apply to a person already employed as a driver education instructor with a Michigan public school.

In order to qualify as an instructor, a person must meet certain requirements. The bill would add that a person could not have a prior felony or misdemeanor conviction involving sexual or physical abuse.

Criminal History Check

The Department of State could not license a person to operate a driver training school or, after the bill's effective date, renew a person's license to operate a school, before requesting and receiving from the Department of State Police and the FBI a criminal history check on the person. In addition, a driver training school licensee could not employ a person as an instructor or, after the bill's effective date, continue to employ a person as a driving instructor before requesting and receiving a criminal history check on the person from the State Police and the FBI. A person already employed as a driver education instructor with a Michigan public school would not be required to submit to a criminal history check.

A driver training school licensee would have to make a request, with payment of the appropriate fee, to the criminal records division of the State

Police for a criminal history check on a form and in a manner prescribed by the criminal records division.

Within 30 days after receiving a request from the Department of State for a criminal history check on a person seeking a license to operate a school or a person seeking an instructor's license, the criminal records division of the State Police would have to conduct the criminal history check. After conducting the check and within that time period, the criminal records division would have to report the results of the criminal history check on an instructor applicant to the Department of State and the driver training school licensee, and report the results of a check on a school to the Department. The report would have to contain any criminal history record information on the person maintained by the criminal records division.

Criminal history record information could be used by a driver training school licensee only for evaluating a person's qualifications for employment as a driver training instructor, or by the Department for evaluating a person's qualifications for licensure as a driver training school. A driver training school licensee or the Department could not disclose the report or its contents, except any felony conviction or a misdemeanor conviction involving sexual or physical abuse, to any person who was not directly involved in evaluating the applicant's qualifications for employment or for licensure as a driver training school. A person who violated these provisions would be guilty of a misdemeanor punishable by a fine of up to \$10,000.

(Under the bill, "criminal history record information" would mean that term as defined in the bureau of criminal identification Act. That Act defines "criminal history record information" as the name; date of birth; fingerprints; photographs, if available; personal descriptions, including physical measurements, identifying marks, scars, amputations, and tattoos; aliases and prior names; Social Security and driver's license numbers and other identifying numbers; and information on misdemeanor convictions and felony arrests and convictions.)

Fees

Currently, an application to conduct a driver training school must be accompanied by a \$75 fee for a noncommercial motor vehicle driver training school and \$150 for a commercial motor vehicle driver training school. The bill would raise the fee to \$125 for a noncommercial motor vehicle school and to

\$200 for a commercial motor vehicle school.

In addition, a license issued to a driver training school expires on December 31 of the calendar year for which the license was issued. An application for license renewal must be accompanied by a renewal fee. The bill would raise the renewal fee from \$75 to \$125 for a noncommercial motor vehicle driver training school and from \$150 to \$200 for a commercial motor vehicle driver training school.

The Act also requires that an application for licensure as an instructor be accompanied by a \$15 fee. The bill would raise this fee to \$25.

After the actual administrative costs of the Department were deducted, the balance of the fee revenue would have to be deposited in the Driver Education Fund, created in the Michigan Vehicle Code.

Senate Bill 792

The bill would amend the Michigan Vehicle Code to require a driver training school operator to subscribe to the commercial look-up service maintained by the Secretary of State; require a driver training school operator to maintain on the premises of the school the most current copy of all nonpersonal information related to his or her driving record, and the driving record of each instructor employed by the school operator, for review by any prospective customer or customer's parent or guardian; and allow a prospective customer or the parent or guardian of a prospective customer to review a copy of all nonpersonal information related to the driving record of the operator or instructors employed by the operator. An operator who failed to provide the information required by the bill would be subject to a fine of up to \$500; each failure to provide information would be considered a separate offense.

Under the Code, the Secretary of State is allowed to provide a commercial look-up service that contains driver and vehicle record information.

MCL 256.602 et al. (S.B. 763)
257.208b (S.B. 792)

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

In April 1998 schools will no longer be required to

offer driver training programs, although they will have the option to offer driver training. Reportedly, however, many districts have already indicated that they will drop their programs. As a result of these decisions, it is likely that many students across the State will have to register for instruction with private driving schools, thus greatly increasing the number of students in private driving schools. Currently, there is no requirement in law that private driving school operators or instructors have their criminal histories checked, nor is there any requirement that operators' or instructors' driving records be available for inspection by prospective customers. This means that students who enroll in a private driving school may find themselves with an unqualified or unsafe instructor or, perhaps worse, an instructor with a history of abuse. While no law can completely prevent abuse or poor driving, the bill would help to ensure that operators and instructors were safe and qualified, by requiring criminal history checks of operators and instructors, and making operators' and instructors' driving records available.

Supporting Argument

Under the Revised School Code, since the 1993-94 school year, if a public school, nonpublic school, or public school academy offers a person employment as a teacher, the school must obtain from the Department of State Police a criminal history check of the person, including a criminal records check through the Federal Bureau of Investigation, before employing the person as a regular employee. This requirement was enacted in an attempt to prevent the hiring of teachers with questionable backgrounds, and thus reduce students' exposure to a potentially harmful individual. By requiring similar criminal history checks for private driver training school instructors and operators, the bill would do the same for students who enroll in private driver training schools.

Legislative Analyst: G. Towne

FISCAL IMPACT

Senate Bill 763 (S-1)

The State would see an increase in revenue from the fee increases. There would be virtually no increase in administrative costs from these provisions. The balance of fee revenue would be deposited in the Driver Education Fund. Because the exact revenue increase would depend on the number of individuals applying for noncommercial and commercial vehicle schools, as well as for licenses for instructors, the fiscal impact is

indeterminate.

The State also would collect revenue from fines assessed from misdemeanor penalties. Because the number of individuals who could be fined is unknown, the fiscal impact is indeterminate. Revenue collected from the fines would have to be applied to the support of public libraries, according to Article VIII, Section 9 of the Michigan Constitution.

The bill would have an indeterminate fiscal impact on the Department of State Police. The cost of a criminal history check from the Department of State Police and the FBI is \$39. It is unclear under the bill as to who would be responsible for this cost though it may be assumed that the costs would be paid by a driver training school licensee. It is also not known how many applications for criminal history checks would be made under the bill.

Senate Bill 792

Currently, the State charges \$6.55 per transaction for look-up services. Requiring driver training operators to subscribe to the look-up service maintained by the Department of State could increase administrative costs to the State. Because the increase in administrative costs would depend on the number of prospective operators who would apply, the fiscal impact is indeterminate.

A driver training operator would have to provide upon request information regarding his or her driving record. Failure to provide such information could result in a fine of not more than \$500. Revenue received from these fines would have to be applied to the support of public libraries according to Article VIII, Section 9 of the Michigan Constitution. The amount of revenue that could be received from fines is indeterminate.

Fiscal Analyst: E. Limbs
B. Baker

A9798\S763A

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.