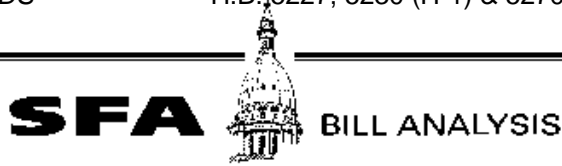


Senate Fiscal Agency
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House Bill 5227 (as passed by the House)
House Bill 5230 (Substitute H-1 as passed by the House)
House Bill 5270 (as passed by the House)
Sponsor: Representative Tony Stamas (H.B. 5227)
Representative Wayne Kuipers (H.B. 5230)
Representative Randy Richardville (H.B. 5270)
House Committee: Transportation
Senate Committee: Transportation and Tourism

Date Completed: 3-21-00

CONTENT

The bills would amend provisions on the sale and disclosure information maintained by the Secretary of State (SOS) under various laws to do the following:

- **Prohibit the SOS or any other State agency from selling any list of information maintained under the laws for the purpose of surveys, marketing, and solicitations.**
- **Delete requirements that people be informed of their right to prohibit disclosure of personal information for surveys, marketing, and solicitations and give an opportunity to notify the Secretary of State of their desire not to have this information disclosed.**
- **Provide that if the SOS gave a member of the State Legislature a list of information from the records maintained under the laws, the Secretary of State would have charge the same fee as the fee for the sale of bulk records.**

The bills would take effect June 1, 2000.

A more detailed description of the bills follows.

House Bill 5227

The bill would amend the Michigan Vehicle Code, which permits the Secretary of State to contract for the sale of lists of driver and motor vehicle records and other records maintained under the Code in bulk, in addition to those lists distributed at cost or at no cost for purposes specified in the Code (257.803c(3)), as well as for surveys, marketing, and solicitations. In addition, the SOS is required to fix a market based price for the sale of these lists or other records maintained in bulk, which may include personal information, and the proceeds from each sale must be credited to the Secretary of State's commercial look up account. The bill would delete from these provisions the reference to surveys, marketing, and solicitations.

The Code permits the SOS, upon request, to furnish a list of information from the records maintained under the Code to a Federal, State, local governmental agency, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. Under the bill, if the SOS furnished a list of information under this provision to a member of the State Legislature, the SOS would have to charge the same fee as the fee for the sale of bulk information.

Currently, before selling and furnishing any list of information for surveys, marketing, and solicitations, the SOS is required to implement methods and procedures that furnish persons with a conspicuous opportunity to be informed of their right to prohibit the disclosure of personal information about them for surveys, marketing, and solicitations through an ongoing public information campaign, which must include the use of printed signs in branch offices and notices included with applications and renewal forms to the extent that the Secretary of State continues to use paper forms for those purposes, and may include periodic press releases, public service announcements, advertisements, pamphlets, notices in electronic media, and other

types of notice. In addition, the SOS is required to review the public information campaign on an annual basis in order to update notice content and furnish notice by more effective means. Also, before selling and furnishing a list of information for surveys, marketing, and solicitations, the SOS is required to provide individuals with a conspicuous opportunity through a telephonic, automated, or other efficient system, to notify the Secretary of State of their desire to prohibit the disclosure of personal information about them, for surveys, marketing, and solicitations. The bill would delete all of these provisions.

In addition, before selling or furnishing any list, the Secretary of State is required to ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under the Code, and that surveys, marketing, and solicitations will not be directed at those persons who in a timely fashion have notified the SOS that surveys, marketing, and solicitations should not be directed at them. The bill would delete these references to surveys, marketing, and solicitations.

Currently, an authorized recipient of personal information disclosed under the Code who resells or rediscloses the information for survey, marketing, and solicitations is required to make and keep for at least five years records identifying each person who received personal information, and allow a representative of the Secretary of State, upon request, to inspect and copy records identifying each person who received the personal information. The bill would delete the reference to survey, marketing, and solicitations. Under the bill, these requirements would apply to a person who resold or redisclosed the information for any of the permissible purposes described in the Code (MCL 257.208c(3)).

House Bill 5230 (H-1)

The bill would amend Public Act 222 of 1972, which provides for the issuance and use of an official personal identification card, to prohibit the SOS or any other State agency from selling any list of information maintained under the Act for the purpose of surveys, marketing, and solicitations. The bill also would make other revisions similar to those proposed by House Bill 5227.

House Bill 5270

The bill would amend Part 801 (Marine Safety), Part 803 (Watercraft Transfer and Certificate of Title), Part 811 (Off-Road Recreation Vehicles), and Part 821 (Snowmobiles) of the Natural Resources and Environmental Protection Act to prohibit the SOS or any other State agency from selling any list of information maintained under the Act for the purpose of surveys, marketing, and solicitation. The bill also would make other revisions similar to those proposed by House Bill 5227.

MCL 257.232 (H.B. 5227)

28.300 (H.B. 5230)

324.80130c et al. (H.B. 5270)

BACKGROUND

The Michigan Vehicle Code, Public Act 222 of 1972, and the Natural Resources and Environmental Protection Act allow the Secretary of State to disclose personal information in a record maintained under the law as follows:

- For use by a governmental agency in carrying out its functions, or by a private person or entity acting on behalf of a governmental agency in carrying out its functions.
- For use in connection with matters of vehicle and operator safety or vehicle theft; vehicle emissions; vehicle product alterations, recalls, or advisories; vehicle performance monitoring; vehicle market research activities, including survey research; and the removal of nonowner records from the original records of vehicle manufacturers.
- For use in the normal course of business by a legitimate business, but only to verify the accuracy of personal information submitted by an individual to the business, and if the information as submitted is no longer correct, to obtain the correct information, for the sole purpose of preventing fraud by pursuing legal remedies against, or recovering a debt against, the individual.
- For use in connection with a civil, criminal, administrative, or arbitration proceeding in a Federal, State, or local court or governmental agency or before a self-regulatory body, or pursuant to an order of a Federal, State, or local court, an administrative agency, or a self-regulatory body.
- For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, if the personal information is not published, redisclosed, or used to contact individuals.
- For use by an insurer or insurance support organization, or by a self-insured entity, in connection with claims investigating activity, antifraud activity, rating, or underwriting.
- For use in providing notice to the owner of an abandoned, towed, or vehicle.
- For use by a licensed private detective or private investigator or by a licensed private security guard agency or alarm system contractor, only for a purpose permitted under this section.
- For use by a car rental business for the purpose of making rental decisions.
- For use by a news media in the preparation and dissemination of a report related to the operation of a motor vehicle or public safety.
- For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the SOS provide information pertaining to himself or herself to the individual's designee.

The Michigan Vehicle Code and Public Act 222 also allow the disclosure of personal information for use by an employer to obtain or verify information relating to the holder of a commercial driver license or to the holder of a chauffeur's license. In addition, the Code allows personal information to be disclosed for use in connection with the operation of private toll transportation facilities.

Legislative Analyst: L. Arasim

FISCAL IMPACT

Due to fewer look-ups, the State could incur a loss of some look-up fee revenue. According to the Department of State, the provisions of these bills could result in a \$400,000 reduction in revenue to the look-up fee account. There would be no impact on local units of government.

Fiscal Analyst: E. Limbs

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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.