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**SFA****BILL ANALYSIS**

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Senate Bill 1232 (as enrolled)  
Sponsor: Senator John J. H. Schwarz, M.D.  
Senate Committee: Transportation and Tourism  
House Committee: Transportation

**PUBLIC ACT 534 of 2002**

Date Completed: 8-6-02

**RATIONALE**

Under the Michigan Vehicle Code, commercial driver's licenses are required of any Michigan resident who intends to drive a tractor trailer rig, wrecker, garbage truck, bus, small delivery truck, van carrying 16 or more people, or other heavy vehicle. The Code's provisions governing commercial driver's licenses were extensively updated in the late 1980s to reflect the Federal Commercial Motor Vehicle Safety Act of 1986. According to the Secretary of State, the goals of the State and Federal laws were to improve commercial driver qualifications by requiring special knowledge and skills tests; remove problem drivers from the highway; establish a system to prevent operators of trucks or buses from having more than one driver's license; and ensure that commercial drivers were properly trained and physically qualified to operate their commercial vehicles. Because the Federal Act was recently updated, it was pointed out that Federal transportation money could be withheld from Michigan if the Vehicle Code was not amended to reflect the recent changes.

**CONTENT**

**The bill amends the Michigan Vehicle Code to revise certain requirements for obtaining and maintaining a commercial driver's license. Specifically, the bill:**

- **Adopts Federal regulations requiring all commercial vehicles to follow distinct safety procedures at railroad crossings.**
- **Requires the Secretary of State immediately to suspend or revoke all vehicle group designations on an operator's or chauffeur's license upon**

**receiving notice of the licensee's failure to follow the railroad safety precautions.**

- **Requires the Secretary of State to check the National Driver Register before issuing an original, renewal or upgrade of a commercial driver's license to an out-of-State applicant.**

**The bill also requires the Secretary of State, police officers, and judicial officers to destroy, rather than retain, suspended or revoked licenses; allows a licensee to renew an operator's or chauffeur's license by mail, regardless of whether he or she has received a ticket in the preceding four years; and requires a license applicant to supply a birth certificate attesting to his or her age or other documents required by the Secretary of State.** The bill takes effect October 1, 2002.

**Commercial Motor Vehicle Definition**

Currently, the Code defines "commercial motor vehicle" as a bus; a school bus; a school transportation vehicle; a motor vehicle, except a motor home, having a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 26,001 or more pounds; a motor vehicle towing a vehicle with a GVWR of more than 10,000 pounds; or a motor vehicle carrying hazardous material. The bill removes buses, school buses, and school transportation vehicles from the definition, and replaces them with a "motor vehicle designed to transport 16 or more passengers, including the driver". In addition, the bill removes vehicles towing 10,000-pound trailers from the definition; and classifies a

motor vehicle with a GCWR over 26,000 pounds including a towed vehicle with a GVWR over 10,000 pounds, as a commercial motor vehicle. (For an explanation of group designations and indorsements, please see **BACKGROUND.**)

The bill also deletes a section of the Code defining "school transportation vehicle" (MCL 257.57c).

#### Railroad Crossings

Commercial Driver's License Suspensions. Under the Code, the Secretary of State must immediately suspend or revoke all vehicle group designations on a person's operator's or chauffeur's licenses upon receiving notice of a conviction, bond forfeiture, or civil infraction, notice that a court or administrative tribunal has found the person responsible for a violation of the law, or notice that the person refused to submit to a drug or alcohol test while he or she was operating a commercial motor vehicle. To the list of offenses requiring suspension or revocation, the bill adds a violation of State and Federal railroad safety crossing regulations. (Specifically, these regulations require all commercial motor vehicle drivers to stop within 15 to 50 feet of all railroad crossings, listen and look in both directions for an approaching train, and then proceed when it is safe to do so without changing gears. Under the Michigan Pupil Transportation Act, school buses are required to stop before a railroad crossing, activate the hazard warning lights, turn off all interior switches including fans, heaters, and radios, open the passenger door and driver-side window, and listen and look in both directions for a train.)

The bill also repeals a section of the Code requiring the Secretary of State to suspend a "class 1, class 2, or class 3 indorsement" upon receiving notice of a conviction, bond forfeiture, or civil infraction determination (MCL 257.319a).

Federal Requirements. Under the bill, the driver of a vehicle carrying hazardous material, passengers for hire, or 16 or more passengers, including the driver, will have to activate the vehicle's warning lights and stop the vehicle within 50 feet but not less than 15 feet from the nearest rail. Currently, the Code specifies that vehicles must stop at least 10

feet from the nearest rail, and does not require vehicles carrying 16 or more passengers to stop at rail crossings, or require them to activate their warning lights.

Also, the bill requires drivers of commercial motor vehicles to comply with a lawful order or direction of a police officer guiding, directing, controlling, or regulating traffic at a railroad-highway grade crossing. Further, the bill prohibits the driver of a commercial motor vehicle from crossing a railroad-highway grade crossing unless the vehicle has sufficient undercarriage clearance and can be driven completely through the crossing without stopping. A person who violates these provisions, or a substantially corresponding local ordinance, will be responsible for a civil infraction. (Some of these provisions are required by the Code of Federal Regulations, 49 C.F.R. 392.10 and 392.11, which the bill adopts.)

Diagnostic Reviews. Under the Code, if there is a fatality at a railroad grade crossing in a city with a population of 60,000 or more, the State Transportation Department is required to perform a diagnostic review within 120 days. The bill retains this provision, and extends it to villages and townships with populations of 60,000 or more and counties with a population of 150,000 or more. Also, under the bill, the requirement applies only if there has not been a diagnostic review at the crossing in the previous two years.

Employer Responsibility. Under the bill, an employer is prohibited from knowingly allowing, permitting, authorizing, or requiring a driver to operate a commercial motor vehicle in violation of any of the Federal or State laws governing railroad crossings in a commercial motor vehicle. A person who violates this provision will be responsible for a civil infraction, and have to pay court costs as well as a civil fine of \$10,000 or less.

Reporting of Crimes. The bill requires courts to report convictions of these railroad crossing offenses to the Secretary of State.

#### Out-of-State Applicants

The bill requires the Secretary of State to check the National Driver Register before issuing an original, renewal, or upgrade of a vehicle group designation or indorsement to

an out-of-State applicant seeking a commercial driver's license. This requirement is in addition to the Code's requirement that the Secretary of State check with the Federal Commercial Information System before issuing a group designation or indorsement. Under the bill, the Secretary of State is prohibited from issuing or renewing a vehicle group designation to an applicant if he or she is listed on the National Driver Register or the Commercial Driver License Information System as being disqualified from operating a commercial motor vehicle or as having a driving license or driving privilege suspended, revoked, canceled, or denied. In addition, the bill requires the Secretary of State to cancel all vehicle group designations on a person's operator's or chauffeur's license upon receiving notice from the National Driver Register, the Commercial Driver License System, or another state or jurisdiction that a person no longer qualifies for a commercial driver's license.

#### Destruction of Suspended and Revoked Licenses

Presently, the Code requires the Secretary of State to retain all suspended or revoked licenses. At the end of the suspension period, the license is returned to the licensee. The bill, instead, requires the Secretary of State to destroy the confiscated licenses, and requires the licensees to obtain a replacement license. Police officers or other official agents who have confiscated revoked or suspended licenses also are required to destroy suspended or revoked licenses. (Currently, the officers must forward revoked or suspended licenses to the Secretary of State.)

#### Other Provisions

Chauffeur Licenses. Currently, school bus drivers, semi-truck drivers, taxi drivers, and limousine drivers are required to obtain a chauffeur's license. The bill removes school bus drivers from this requirement.

Temporary Instruction Permits. Under the Code, a person holding a temporary motorcycle, operator, chauffeur, or vehicle group designation or indorsement instruction permit may operate the vehicle for which he or she is temporarily licensed for 150 days. Under the bill, the temporary permits will expire after 180 days. (As currently required,

the permittee must be under the constant visual supervision of a licensed adult or licensed instructor while driving.)

Further, the bill specifies that a person must pass a commercial driver's license knowledge test before obtaining a commercial driver's license temporary instruction permit. Also, permittees with bus or school bus indorsements may not practice driving while passengers are on board.

Applicant Identification. Under the bill, an applicant for an operator's or chauffeur's license must supply a birth certificate attesting to his or her age, or other sufficient documents or identification as the Secretary of State requires.

Renewal by Mail. The Code permits the Secretary of State to issue by mail a renewal operator's or chauffeur's license for one additional four-year period. The Secretary of State, however, is prohibited from renewing by mail the license of person who has a driving record with a conviction or civil infraction determination received in the preceding 48 months. The bill eliminates this restriction.

Driving Skills Test. Presently, applicants for an original operator's or chauffeur's license without a vehicle group designation or indorsement must pass a "behind-the-wheel road" test. The bill instead requires applicants to pass a "driving skills" test, which must include a behind-the-wheel road test. Further, under the bill, a behind-the-wheel road test for an original vehicle group designation or passenger indorsement may not be conducted unless the applicant has been issued a temporary instruction permit.

Railroad Crossings. Under the Code, the State Transportation Department and local road authorities may designate certain railroad grade crossings as "stop" crossings. Drivers are required to stop at least 10 feet but not more than 50 feet from the tracks at a stop crossing; the bill increases the minimum distance to 15 feet.

MCL 257.6 et al.

#### **BACKGROUND**

The Michigan Vehicle Code requires that truck

drivers be certified to drive certain categories, or groups, of vehicles based on weight and construction. There are three commercial driver license group designations: A, B, and C. A group A designation is needed when towing a vehicle or trailer with a GVWR over 10,000 pounds. Examples include tractor trailer rigs when the trailer has a GVWR over 10,000 pounds; wreckers towing a vehicle with a GVWR over 10,000 pounds; and mobile home haulers. A group B designation is needed to operate a single vehicle (including a bus) with a GVWR of 26,001 pounds or more, or to operate a combination of vehicles having a GCWR of 26,001 pounds or more, when the vehicle or trailer being towed has a GVWR of 10,000 pounds or less. Examples of group B vehicles include large buses, dump trucks, and garbage trucks. A group C designation is needed to operate a small single vehicle (with a GVWR of 26,000 pounds or less), or a combination of vehicles (with a GCWR of 26,000 pounds or less) *only* when the vehicle or combination carries hazardous material or hazardous waste in amounts requiring the display of a placard; is designed to carry 16 or more people, including the driver; or is a school bus carrying 15 or fewer people, including the driver.

License indorsements further authorize group designation holders to drive commercial vehicles transporting passengers or hauling certain things, such as hazardous material. The indorsements, like group designations, are lettered: T for double trailers; N for tankers, H for hazardous materials, P for passengers, and X for tankers hauling hazardous materials. The Vehicle Code exempts the following persons from the requirement to have a commercial driver's license: military personnel, police officers and firefighters, drivers of family vehicles (such as motor homes and U-Hauls), and farmers, under certain conditions.

## **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**

According to the Secretary of State, Federal commercial driver's license requirements specify that states must implement railroad crossing offense legislation for commercial

vehicle drivers by October 4, 2002. Penalties for failure to do this include the loss of up to 10% of Federal highway funds, loss of recognition of a state's ability to issue commercial driver's licenses, and loss of Federal enforcement funds for the State Police Motor Carrier Division. This money is needed to ensure safe, driveable roads for Michigan citizens. The bill protects this revenue source by bringing the Vehicle Code into conformity with the Federal law.

In addition, the bill streamlines a few key procedures performed by the Secretary of State. Presently, drivers seeking to renew their operator's or chauffeur's (noncommercial) license by mail may not do so if they have received a ticket in the preceding four years. Originally, ticketed drivers were thought to be part of a "safety risk" pool; therefore, the Secretary of State could better assess their suitability for a driver's license if they renewed in person. Research has demonstrated, however, that most drivers receive tickets in an isolated manner—once every five years, for example. These drivers do not generally pose a safety risk to other drivers. Allowing them to renew by mail will save the Department time and money, as well as shorten the lines in the branch offices. Similarly, requiring the State to destroy, rather than retain, suspended or revoked licenses will save the Department resources. In truth, the Secretary of State does not return most retained licenses to their owners; instead, the Department typically issues owners new licenses because the retained ones expire before the end of the suspension or revocation period. (A suspended license is reinstated at the end of a set period of time and when the owner pays a fee; a revoked license is not reinstated until the owner has met certain requirements under the law, such as alcohol counseling.) According to the Secretary of State, it is simpler to issue new licenses than to restore the old ones, now that driver license images are digitally stored. Also, the provision that requires police officers to confiscate revoked and suspended licenses and forward them to the Department is haphazardly practiced, at best. Simply requiring the Department or the police to destroy such licenses and then, when applicable, reissue them is a clear and uniform solution to the handling of licenses in limbo.

Legislative Analyst: Claire Layman

## **FISCAL IMPACT**

This bill will have an indeterminate impact on the Department of State. Cost savings may result from enactment of the bill. Transactions in branch offices may be reduced somewhat since persons holding valid driver's licenses will be able to renew by mail even if they have received a conviction or civil infraction determination within the 48 months preceding renewal. It is unknown how many transactions this will constitute or how many people will use this renewal option. Additionally, the Department will no longer hold onto commercial driver's licenses that are revoked or suspended. This may reduce administrative costs slightly.

Fiscal Analyst: Jessica Runnels

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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.