



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 912 (as enrolled)
Senate Bill 913 (as enrolled)
Sponsor: Senator Alan Sanborn (S.B. 912)
 Senator Michelle A. McManus (S.B. 913)
Senate Committee: Judiciary
House Committee: Criminal Justice

PUBLIC ACT 150 of 2004
PUBLIC ACT 149 of 2004

Date Completed: 8-16-04

RATIONALE

Public Act 126 of 2002 amended the Michigan Vehicle Code to revise the prohibition against, and increase the penalties for, forging, counterfeiting, or altering a driver's license, a license photograph or image, or the electronic data contained on a driver's license, and for using, selling, or possessing a falsified license. The changes were made in response to concerns that fake driver's licenses were being used not only by minors to buy and drink alcohol or gain access to clubs and events restricted to people over 21, but also increasingly by others to commit identity theft or to hide the true identity of terrorists or other violent criminals. While the 2002 legislation revised the prohibition in the Code and increased the penalties pertaining to fraudulent driver's licenses, it did not address official State personal identification cards, which are regulated under a different statute. It was suggested that the penalties for forging or counterfeiting a State ID, and for using, selling, or possessing a false ID card, should be consistent with the penalties that apply to forging or counterfeiting a Michigan driver's license.

CONTENT

Senate Bill 912 amends the Code of Criminal Procedure to revise the

sentencing guidelines for forging a State identification card to commit a felony, and add to the guidelines felony offenses enacted by Senate Bill 913.

Senate Bill 913 amends Public Act 222 of 1972, which provides for official State personal identification cards, to revise the penalties for reproducing, altering, counterfeiting, forging, duplicating, or using an official State personal identification card; prescribe penalties for selling or possessing an altered, counterfeit, forged, or duplicated card; and extend the penalties to violations involving a photograph, image, or electronic data contained on a card.

The bills will take effect on September 1, 2004. Senate Bill 912 was tie-barred to Senate Bill 913.

Senate Bill 912

Currently, under the sentencing guidelines, forging a State identification card to commit a felony is a Class H felony against the public order with a statutory maximum sentence of four years' imprisonment. The bill replaces that with the sentencing guidelines shown in Table 1.

Table 1

Violation	Felony Level	Statutory Maximum
Counterfeiting, forging, or using to commit felony punishable by 10 years or more	D - Public Order	10 years
Counterfeiting, forging, or using to commit crime punishable by more than 6 months but less than 10 years	E - Public Order	5 years
Selling, possessing with intent to deliver, or possessing 2 or more	E - Public Order	5 years

Senate Bill 913

Under Public Act 222, intentionally reproducing, altering, counterfeiting, forging, or duplicating an official identification card or using a reproduced, altered, counterfeit, forged, or duplicated ID card is a felony if the intent is to commit or aid in committing an offense punishable by imprisonment for one year or more; the Act does not specify a penalty for the offense. (Under the Michigan Penal Code, a felony for which no punishment is prescribed is punishable by up to four years' imprisonment, a maximum fine of \$5,000, or both.) If the intent of the reproduction, alteration, counterfeiting, forgery, duplication, or use is to commit or aid in committing an offense punishable by up to

one year's imprisonment, the violation is a misdemeanor punishable by up to one year's imprisonment, a maximum fine of \$1,000, or both.

The bill revises the prohibition and the penalties. The bill prohibits a person from intentionally reproducing, altering, counterfeiting, forging, or duplicating an official State personal ID card photograph or image, the negative of the photograph, an official State personal ID card, or the electronic data contained on an ID card or a part of an ID card, or using an official State personal ID card, image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated. A violation will be punishable as shown in Table 2.

Table 2

Intent	Offense Level	Max.	
		Imprisonment	Max. Fine
Commit or aid in a felony punishable by 10 years or more	Felony	10 years	\$20,000
Commit or aid in a felony punishable by less than 10 years or a misdemeanor punishable by 6 months or more	Felony	5 years	\$10,000
Commit or aid in a misdemeanor punishable by less than 6 months	Misdemeanor	1 year	\$2,000

The bill also prohibits a person from selling or possessing with intent to deliver to another person, a reproduced, altered, counterfeit, forged, or duplicated official State personal ID card photograph or image, negative of the photograph, an official State

personal ID card, or electronic data contained on an ID card or part of a card; or possessing two or more of those items. A violation will be punishable as shown in Table 3.

Table 3

Violation	Offense Level	Max. Imprisonment	Max. Fine
Possession	Misdemeanor	1 year	\$2,000
Sale, possession with intent to deliver, or possession of 2 or more	Felony	5 years	\$10,000

Under the bill, the felonies will not apply to a minor whose intent is to possess, purchase, or consume alcohol in violation of the Michigan Liquor Control Code. The offenses involving possession, sale, and possession with intent to deliver will not apply to a person who possesses one or more photocopies, reproductions, or duplications of an official State personal ID card or part of a card to document the person’s identity for a legitimate business purpose.

MCL 777.11b (S.B. 912)
28.295 (S.B. 913)

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

The State of Michigan reportedly issues about 2 million driver’s licenses a year through its Secretary of State branch offices. The Secretary of State offices also issue approximately 100,000 official State personal ID cards annually. While criminals can falsify both forms of identification to commit identity theft or violent crimes, the increased penalties enacted in 2002 apply only to offenses involving driver's licenses.

Since State ID cards are similar in appearance to driver's licenses and can be used for the same types of identification purposes, counterfeiting a State ID card or using, selling, or possessing a false State ID card is as significant a danger to the public as is a violation that involves a fake driver’s license. It stands to reason that the penalties for falsifying a State ID card, and for using, selling, or possessing a fake State ID card, should be identical to the penalties enacted in 2002 for a violation involving a driver’s license.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills will have an indeterminate fiscal impact on State and local government. According to the Department of Corrections Statistical Report, in 2001 no offenders were convicted of violating the counterfeit identification provision. There are no data available to indicate how many offenders will be convicted under the revised provisions. The bills potentially will decrease the number of convicted offenders by clarifying that the prohibition applies only to official State personal identification cards rather than any identification card, but they also may increase the number of potential offenders by expanding the provision to prohibit the reproduction and use of an ID card photograph, negative of the photograph, image, or electronic data contained on an ID card. The bills also may increase the number of potential offenders by prohibiting the sale and possession of counterfeit identification, and possession with intent to deliver. They also may have an impact on corrections costs by changing the maximum allowable sentence depending on the circumstances of the offense. Local units of government incur the costs of misdemeanor probation and incarceration in a local facility, which vary by county. The State incurs the cost of felony probation at an average annual cost of \$1,800, and the cost of incarceration in a State facility at an average annual cost of \$28,000.

Fiscal Analyst: Bethany Wicksall

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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.