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BILL ANALYSIS

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Senate Bills 962 and 963 (as introduced 12-6-07)
Sponsor: Senator Alan Sanborn (S.B. 962)
Senator Tony Stamas (S.B. 963)
Committee: Transportation

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CONTENT

Senate Bills 962 and 963 would amend the Michigan Vehicle Code and Public Act 222 of 1972 (which provides for an official State personal identification card), respectively, to do the following:

- Require an applicant for a driver license or official State ID card to provide documents demonstrating U.S. citizenship or other lawful status in the U.S., along with a photographic identity document, a birth certificate, or other nonphotographic document.
- Permit the Secretary of State (SOS) to issue a temporary license or ID card to an applicant presenting certain documents to demonstrate lawful status, including a nonimmigrant visa, an approved application for asylum, and an application for temporary protected status.
- Provide that a temporary license or ID card would be valid only during the time that the applicant was authorized to be in the U.S., or if there were no definite end to the period of stay, for one year.
- Require the Secretary of State to verify the validity and completeness of documentation presented by an applicant.
- Require a license or official State ID card to contain physical security features to prevent tampering, counterfeiting, or duplication.
- Replace the current fees for an original or renewal license with higher maximum fees, with the increased revenue to be used by the

SOS to pay for administration and enforcement of the new provisions.

- Change the fee for a State ID card from \$10 to not more than \$20.
- Require the State to enter into a memorandum of understanding with the U.S. Department of Homeland Security to use an automated system to verify the legal status of a person, other than a U.S. citizen, applying for a license or official State ID card.
- Permit the State to enter into an interstate compact to provide a state with electronic access to information contained in the motor vehicle databases of all other states.
- Require the SOS to establish and maintain a motor vehicle database containing the information required under that compact.

The bills are tie-barred to one another and would take effect on January 1, 2009.

Required Documents

Under the bills, before issuing an operator's license, a chauffeur's license, or an official State ID card to an applicant, the SOS would have to require and the applicant would have to produce documentary evidence as determined by the SOS showing that one or more of the following applied to the applicant:

- The applicant was a U.S. citizen.
- The applicant was an alien lawfully admitted for permanent or temporary residence in the U.S.

- The applicant had conditional permanent residence status in the U.S.

If an applicant presented evidence of the following, the SOS could issue only a temporary operator's or chauffeur's license, or a temporary official State ID card to the applicant:

- The applicant had a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the U.S.
- The applicant had an approved application for asylum in the U.S.
- The applicant had entered the U.S. in refugee status.
- The applicant had a pending or approved application for temporary protected status in the U.S.
- The applicant had approved deferred action status.
- The applicant had a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the U.S. or conditional permanent residence status in the U.S.

A temporary license or temporary official State ID card would be valid only during the time that the applicant was authorized to stay in the U.S. or, if there were no definite end to the period of authorized stay, for one year.

A temporary license or official State ID card would have to indicate clearly that it was temporary and would have to state the date on which it expired.

A temporary license or official State ID card could be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary license had been extended by the U.S. Secretary of Homeland Security.

Currently, an applicant for an operator's license, chauffeur's license, or official State ID card must supply a birth certificate attesting to his or her age or other sufficient documents or identification as the SOS may require.

Under the bills, an applicant would have to supply a photographic identity document, a birth certificate, or other nonphotographic identity document and other sufficient documents or identification as required by the SOS. These documents would have to

provide the applicant's full legal name history and date of birth, as well as his or her address and residency, and demonstrate that the applicant was a U.S. citizen, was an alien lawfully admitted for permanent or temporary residence in the U.S., or had conditional permanent resident status in the U.S. For an applicant for an official State ID card, the documents also would have to include his or her social security number (SSN).

The Vehicle Code prohibits the SOS from issuing a license to a nonresident of the State, including a foreign exchange student. Under Senate Bill 962, that provision would apply unless the individual otherwise was eligible under the bill. The bills also would prohibit the SOS from issuing a license or an official State ID card to a person who was not a U.S. citizen, unless he or she otherwise was eligible under the bills.

Document Verification; Retention; Security

Under the bills, the SOS would have to verify with the issuing agency the validity and completeness of each document presented by an applicant for an operator's license, chauffeur's license, or official State ID card. The Secretary could not accept a foreign document, other than an official passport, to satisfy the application requirements.

The SOS would have to use technology to capture digital images of identity source documents so that the images were capable of being retained in electronic storage in a transferable format. The SOS would have to retain paper copies of source documents presented by an applicant to obtain an operator's license, chauffeur's license, or official State ID card for at least seven years, or images of those source documents for at least 10 years.

The SOS would have to establish an effective procedure to confirm or verify a renewing applicant's information for an operator's license, chauffeur's license, or official State ID card.

The SOS also would have to confirm with the Social Security Administration a Social Security number presented by an applicant for a license or official State ID card, using the full SSN, or confirm the applicant's ineligibility for an SSN.

The SOS would have to refuse to issue an operator's license, chauffeur's license, or official State ID card to a person holding a license or official ID card issued by another state without confirmation that the person was terminating or had terminated the license or ID card issued by the other state.

The SOS would have to presume that an operator's license, chauffeur's license, or official State ID card for which an application had been made for renewal, duplication, or reissuance, was issued in accordance with the provisions of the Code or Public Act 222 if, at the time the application was made, the license or ID card were not expired, canceled, suspended, or revoked. That presumption would not apply if the SOS were notified by a local, State, or Federal governmental agency that the person seeking a renewal, duplication, or reissuance either was not a U.S. citizen or was not legally in the U.S.

The SOS would have to do all of the following:

- Ensure the physical security of locations where operator's licenses, chauffeur's licenses, and official State ID cards were produced and the security of document materials and papers from which licenses and ID cards were produced.
- Subject all those authorized to manufacture or produce licenses or official State ID cards to appropriate security clearance requirements.
- Establish fraudulent document recognition training programs for appropriate employees engaging in the issuance of operator's and chauffeur's licenses and official State ID cards.

Use of Source Documents

Currently, the SOS may disclose information in a record maintained under the Vehicle Code or Public Act 222 only under certain circumstances, including the following:

- For use by a Federal, State, or local governmental agency, including a court or law enforcement agency, in carrying out the agency's functions, or by a private person or entity acting on behalf of a governmental agency in carrying out its functions.
- 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 bills also would permit copies or images of source documents retained by the SOS under the bills to be used and disclosed for those purposes.

Photograph & Signature

Currently, an applicant for an operator's license or chauffeur's license may have his or her image and signature captured or reproduced when the application for the license is made. Senate Bill 962 would require an applicant for a license to have a digital photograph of his or her image and signature to be made at that time, and would require the digital photographic image to appear on the applicant's operator's or chauffeur's license.

The bill would delete provisions under which a person required to maintain a valid license under the Sex Offenders Registration Act must have his or her image and signature captured or reproduced when the application for a license is made. The bill also would remove provisions requiring the SOS to acquire the equipment for capturing the images and signatures and permitting the SOS to furnish that equipment to a local unit authorized to license drivers.

Under the Vehicle Code, the SOS may retain and use a person's image and signature only for programs administered by the SOS and, except as provided, may not use a person's image or signature unless the person grants written permission for that purpose to the SOS or specific enabling legislation permitting the use is enacted. A law enforcement agency of the State has access to information retained by the SOS under these provisions, and the information may be used for any law enforcement purposes unless otherwise prohibited by law.

Senate Bill 962 would delete those provisions, instead providing that a person's photographic image or signature could be used only as follows:

- By a Federal, State, or local governmental agency for a law enforcement purpose.

- By another state to the extent required by Federal law.
- By the SOS for a program administered by the SOS.
- By the SOS for a purpose other than that permitted above, if the person gave written permission.
- As necessary to comply with a law of the State or the United States.

The bill would require the SOS to forward to the Department of State Police the images of people required to be registered under the Sex Offenders Registration Act, once the Department of State Police had given the SOS an updated list of those people. (These provisions would replace similar language currently in the Code.)

Public Act 222 also permits the SOS to retain and use a person's image and signature only for programs administered by the SOS. Senate Bill 963 would require, rather than permit, the SOS to do that. The bill would refer to a person's digital photographic image and signature, and would eliminate the provision that those items may be used "only" for programs administered by the SOS.

Information on License, ID Card

Currently, a license issued under the Code or an official State ID card issued under Public Act 222 must contain certain information, including the full name, date of birth, address of residence, height, eye color, sex, image, and signature of the licensee. The bills would revise those provisions to require the full legal name and would refer to a digital photographic image.

The Code also provides that if a licensee is less than 18 years of age at the time the license is issued, the license must contain the date on which the licensee will become 18 and 21 years of age. If a licensee is at least 18 years of age but less than 21 years of age at the time the license is issued, the license must contain the date on which the licensee will become 21 years of age.

Senate Bill 962 would delete those provisions.

Under both bills, a license or an official State ID card would have to contain physical security features designed to prevent

tampering, counterfeiting, or duplication of the license for fraudulent purposes.

Currently, a digitized license or an official State ID card may contain an identifier for voter registration purposes. The digitized license or ID card may contain information appearing in electronic or machine readable codes needed to conduct a transaction with the SOS. The bills would require, rather than permit, a digitized license or official State ID card to contain that information, with defined minimum data elements needed to conduct a transaction with the SOS.

("Defined minimum data elements" would mean that phrase as defined in 6 CFR 37.19. That section of the Code of Federal Regulations, implementing the Real ID Act of 2005, has not yet been finalized. A proposed rule submitted on March 9, 2007, however, would require the machine readable portion of a REAL ID driver license or ID card to include the following defined minimum data elements: the expiration date, the holder's name, including full legal name and all name changes; the issue date; the holder's date of birth, gender, and address; a unique identification number; a revision date, indicating the most recent change or modification to the visible format of the driver license or ID card; and an inventory control number of the physical document.)

Currently, the voter identifier information on a digitized license or an official State ID card is limited to the person's driver license number, birth date, license expiration date, and other information necessary for use with electronic devices, machine readers, or automatic teller machines, and may not contain the person's name, address, driving record, or other personal identifier. The license or ID card must identify the encoded information.

The bills would delete those provisions.

Under the Code and Public Act 222, highly restricted personal information may be used and disclosed only as expressly permitted by law. "Highly restricted personal information" means an individual's photograph or image, SSN, digitized signature, and medical disability information. The bills also would include source documents presented by an

applicant to obtain an operator's license, chauffeur's license, or official State ID card.

License Fees

The Vehicle Code specifies fees that must accompany an application for an original or renewal operator's license or chauffeur's license. Senate Bill 962 would increase those fees as shown in Table 1.

Table 1

License	Current Fee	Fee Under Bill
Operator's license	\$25	Not more than \$35
Operator's license renewal	\$18	Not more than \$30
Duplicate operator's license	\$9	Not more than \$15
Chauffeur's license	\$35	Not more than \$45
Duplicate chauffeur's license	\$18	Not more than \$25
Minor's restricted license	\$25	Not more than \$35

The Code requires the SOS to deposit the fees in the State Treasury, to the credit of the State's General Fund. The State Treasurer must deposit \$4 in the Traffic Law Enforcement and Safety Fund for each person examined for an original license or a renewal chauffeur's license, except that \$2 must be deposited in that Fund for each two-year operator's or two-year chauffeur's license.

Senate Bill 962 would remove the provision relating to the two-year licenses.

The bill would require the revenue from the increase in fees to be appropriated to the General Fund to be used by the SOS to pay the necessary expenses incurred by the SOS in the administration and enforcement of the bill.

ID Card Fee

Public Act 222 requires an applicant for an official State ID to pay a fee of \$10, unless otherwise provided. Senate Bill 963 instead would require a fee of not more than \$20.

Religious Exemption

Under the Code, a requirement to include a SSN on an application does not apply to an applicant who for religious convictions is exempt under law from disclosure of his or her SSN under those circumstances. The SOS is required to inform the applicant of this possible exemption.

Senate Bill 962 would remove the exemption.

Memo of Understanding; Interstate Compact

The bills would require the State to enter into a memorandum of understanding with the U.S. Secretary of Homeland Security to use the automated system known as Systematic Alien Verification for Entitlements (SAVE) routinely, as provided by Section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), to verify the legal presence status of a person other than a U.S. citizen who was applying for an operator's license, chauffeur's license, or an official State ID card.

(Section 404 of IIRIRA requires the U.S. Attorney General to establish a pilot program confirmation system to respond to inquiries made by electing persons and other entities concerning an individual's identity and whether the person is authorized to be employed; and to maintain records of the inquiries made, and confirmations provided or not provided.)

Under Senate Bill 962, the State also could enter into and participate in the interstate compact regarding sharing of driver license data, known as the "driver license agreement", in order to provide electronic access by a state to information contained in the motor vehicle databases of all other states. The SOS would have to establish and maintain a motor vehicle database containing the information required under the driver license agreement.

MCL 257.40b et al. (S.B. 962)
28.291 et al. (S.B. 963)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

State: There would be an indeterminate cost associated with the provisions in the proposed legislation. There would be significant costs associated with the possible hiring and training of additional staff, and programming costs including the purchase of additional equipment and software. Some of these costs would be covered by the increase in fees for issuance of driver licenses and ID cards and license and ID renewals. The fee for an original driver license or ID could be increased by up to \$10 from the current fee, and the renewal fee could be increased by up to \$12 from the current fee for driver licenses or up to \$10 for ID cards.

There are currently approximately 7.3 million driver license holders and 1.0 million ID card holders in the State. The amount of revenue generated by the proposed increase in renewal fees alone could raise up to approximately \$97.6 million (\$87.6 from driver licenses and \$10.0 million from ID cards). These additional fees would not all be generated at once but rather on a staggered basis according to renewal dates. The additional costs associated with the provisions of the bills would be covered, in part, and would be limited by the amount of appropriations provided by the Legislature to cover these presumed additional expenses.

Local: The bills would have no fiscal impact on local government.

Fiscal Analyst: Joe Carrasco

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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.