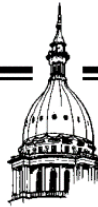




Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 390 (Substitute S-1 as passed by the Senate)
Sponsor: Senator John Moolenaar
Committee: Transportation

Date Completed: 6-10-13

RATIONALE

Under the Michigan Vehicle Code, a person may not operate an autocycle without a motorcycle endorsement on his or her license. The Secretary of State (SOS) is tasked with developing a driving test for an autocycle or three-wheeled motorcycle. (The Code defines "autocycle" as an enclosed motorcycle that is equipped with safety belts, rollbar, windshield, wipers, steering wheel, and equipment otherwise required on a motorcycle, and that has not more than three wheels in contact with the roadway at any one time.) Issues have been raised regarding the Code's requirement that autocycle operators obtain motorcycle endorsements. Reportedly, by virtue of autocycle design and capability, an autocycle is more like a traditional automobile than a motorcycle, and cannot perform the maneuvers necessary to pass the SOS test required for the motorcycle endorsement. Thus, it has been suggested that the Code should allow a person to operate an autocycle without a motorcycle endorsement.

On an unrelated topic, the Secretary of State offers services for people to obtain vehicle and driver records, and is responsible for collecting and crediting any related fees. Reportedly, over roughly the past 20 years, 29 other states have adopted a "self-funding" model, in which a third-party private entity is given access to state information, takes orders from customers for government data, provides the data to the customers, collects fees on behalf of the state, and remits the appropriate fees to the state government while retaining a small convenience fee. It has been suggested that Michigan should enhance data services and

adopt a form of the self-funding model for SOS data services.

CONTENT

The bill would amend the Michigan Vehicle Code to 1) allow a person to operate an autocycle without a motorcycle endorsement on his or her license, and 2) authorize the Secretary of State to designate a private entity to provide a commercial look-up service, and collect commercial look-up service fees and a web portal development fee.

Autocycle Exception

Section 312a of the Code requires a person to obtain a motorcycle endorsement on his or her operator's or chauffeur's license before operating a motorcycle on a public street or highway. The bill would exclude autocycle operation from this requirement.

The Code also provides that a motorcycle endorsement issued to a person who operates a three-wheeled motorcycle or an autocycle is restricted to operation of that type of motorcycle, and does not permit operation of a two-wheeled motorcycle. Under the bill, this would apply to an endorsement issued for the operation of a three-wheeled motorcycle other than an autocycle.

The SOS must develop a driving test for an autocycle or a three-wheeled motorcycle. The bill would require this for a three-wheeled motorcycle other than an autocycle.

Third-Party E-Services

Section 208b of the Code permits the Secretary of State to provide a commercial look-up service of records maintained under the Code. For each record looked up, the SOS must charge a fee specified annually by the Legislature or, if the Legislature does not specify a fee, a market-based price established by the SOS. Revenue from the fee must be credited to the Transportation Administration Collection Fund (TACF).

The bill would amend Section 208b to authorize the SOS also to collect a web portal development fee to be used for State web portal development, upon a request from the Department of Technology, Management, and Budget (DTMB).

In addition, the bill would authorize the Secretary of State to designate a private entity to: 1) provide a commercial look-up service; and 2) collect commercial look-up service fees and the web portal development fee. Commercial look-up fees collected by a private entity would have to be credited to the TACF. A private entity that collected a web portal development fee would have to use the fee for State web portal development.

The Secretary of State would have to choose a private entity through competitive bidding, unless the SOS found, under circumstances related to a commercial look-up service, that some other method was in the public interest. The Secretary of State would be required to report its findings to the DTMB and the Senate and House Appropriations subcommittees, at least 90 days before work began.

Currently, the Secretary of State may not provide an entire computerized central file or other file of records to a nongovernmental person or entity, unless the person or entity pays a prescribed fee for each individual record. Under the bill, a private entity that acted on behalf of the SOS under Section 208b also would be subject to this limitation.

MCL 257.208b et al.

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

Although autocycles are motorcycles by definition, they are more similar to traditional automobiles, and should be excluded from motorcycle endorsement requirements. Under the bill, autocycles still would be considered motorcycles subject to all other rules and regulations for motorcycles under the Code, but a motorcycle endorsement would not be required.

The test for a motorcycle endorsement is designed to accommodate motorcycle configurations with motorcycle controls, and is not designed to accommodate autocycles. Reportedly, autocycles typically have a front tread width of 70 inches, which makes it impossible for them to execute the turns that the motorcycle endorsement test requires. Also, autocycles reportedly cannot meet the motorcycle stop test.

Autocycles should be treated akin to automobiles for the purpose of licensure. Driving an autocycle is more similar to driving a traditional automobile than a motorcycle. An autocycle is enclosed, has a steering wheel, is equipped with gas and brake pedals, and handles similarly to an automobile, whereas a motorcycle has handlebars, is equipped with gas and brake hand controls, and does not handle like an automobile. The State has previously distinguished autocycles from traditional motorcycles by exempting autocycle operators from motorcycle helmet requirements.

In addition, since the motorcycle endorsement test is incompatible with autocycle capabilities, the license endorsement requirement might cause uncertainty for interested investors and consumers, which could lower sales potential and hurt this growing industry. By deleting the requirement, the bill could encourage growth of the autocycle industry.

Supporting Argument

The bill would enable the SOS to contract with a private entity that would provide the commercial look-up service, and collect both the look-up service fee and a web portal development fee. The look-up fee would have to be deposited into the TACF, as

currently required, and the private entity would retain the web portal development fee for the development of a State web portal; that is, a website that would bring together information from diverse sources in a uniform way, giving individuals, businesses, and other one online place to obtain or purchase state records or data.

By adopting this self-funding model for data services, Michigan would enhance access to government data. In return for allowing the private entity to keep a convenience fee (the web portal development fee), Michigan would receive a team dedicated to enhancing other existing data services. Since a contractor's web portal development fee would have to be used for State web portal development, this bill could be the first step toward a large future expansion of data services into other areas of State government. This could result in significant benefits for the State, and implementing the self-funding model for SOS record look-up services would be an ideal pilot project.

According to the DTMB, a self-funding partner would provide instant online direct access to data through a private delivery channel, which would lead to better service for individuals and business customers. In dealing with companies that have roughly two decades of experience in this industry throughout 29 other states, Michigan would receive the benefits of contracting with private companies that have both generated thousands of applications in other states, and figured out the best practices for data aggregation and customer service through years of trial and error. Since the private contractor would be self-funding, these benefits would come without the burden of tax increases on businesses or individuals.

Adopting a self-funding model also could generate considerable revenue for a contracted private sector third party. The private entity essentially would repackage and resell SOS data to data aggregators and high-volume purchasers, including bulk purchasers of driver and vehicle histories, which would pay the web portal development fee in addition to the look-up fee. Reportedly, these self-funding contractors typically charge an additional fee of \$1 to \$2 per record. According to the DTMB, based on historical sales, this could generate approximately \$3.5 million to \$7

million in revenue for a private sector partner.

Since the Code authorizes only the SOS to collect commercial look-up service fees, it is not compatible with the self-funding model. A third party is required to collect fees and then disburse them to the State. The bill would allow the SOS to delegate this authority, while ensuring that government fees still would be properly remitted to the Transportation Administration Collection Fund.

Legislative Analyst: Glenn Steffens

FISCAL IMPACT

The bill would not have a fiscal impact on State resources. Currently, the Secretary of State collects an estimated \$24 million to \$25 million annually from the commercial look-up fees it charges and deposits those funds into the Transportation Administration Collection Fund for administrative costs for the Department of State.

Under the bill, the look-up fees and a web portal development fee could be collected by a private third party entity designated by the Secretary of State. The private entity would collect the fees and be required to credit the look-up fees to the TACF. The bill would have no impact on the amount of revenue collected or on the amount of fees deposited into the TACF, so the Department of State should not be affected by the implementation of the bill.

The bill 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.