

HOUSE BILL No. 5940

September 22, 2016, Introduced by Reps. Chang, Santana, Pagel, Guerra, Geiss, Hoadley, LaGrand, Moss, Wittenberg, Yanez, Robinson, Greig, Pagan, Love, Irwin, Hovey-Wright and Gay-Dagnogo and referred to the Committee on Transportation and Infrastructure.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 51a and 307 (MCL 257.51a and 257.307), section 51a as amended by 2008 PA 7 and section 307 as amended by 2015 PA 11, and by adding section 307c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 51a. "Resident" means every person who resides in this
2 state. ~~and establishes that he or she is legally present in the~~
3 ~~United States.~~ This definition applies to the provisions of this
4 act only.

5 Sec. 307. (1) If an applicant for an operator's license or
6 chauffeur's license to operate a noncommercial motor vehicle is a
7 citizen of the United States, the applicant shall supply a
8 photographic identity document, a birth certificate, or other

1 sufficient documents as the secretary of state may require, to
2 verify the identity and citizenship of the applicant. ~~If~~**EXCEPT AS**
3 **PROVIDED IN SECTION 307C, IF** an applicant for an operator's or
4 chauffeur's license is not a citizen of the United States, the
5 applicant shall supply a photographic identity document and other
6 sufficient documents to verify the identity of the applicant and
7 the applicant's legal presence in the United States under
8 subdivision (b). The documents required under this subsection shall
9 include the applicant's full legal name, date of birth, and address
10 and residency and demonstrate that the applicant is a citizen of
11 the United States or is legally present in the United States. If
12 the applicant's full legal name differs from the name of the
13 applicant that appears on a document presented under this
14 subsection, the applicant shall present documents to verify his or
15 her current full legal name. The secretary of state shall accept as
16 1 of the required identification documents an identification card
17 issued by the department of corrections to prisoners who are placed
18 on parole or released from a correctional facility, containing the
19 prisoner's legal name, photograph, and other information
20 identifying the prisoner as provided in section 37(4) of the
21 corrections code of 1953, 1953 PA 232, MCL 791.237. An application
22 for an operator's or chauffeur's license shall be made in a manner
23 prescribed by the secretary of state and shall contain all of the
24 following:

25 (a) The applicant's full legal name, date of birth, residence
26 address, height, sex, eye color, signature, intent to make an
27 anatomical gift, other information required or permitted on the

1 license under this chapter, and, only to the extent required to
2 comply with federal law, the applicant's social security number.
3 The applicant may provide a mailing address if the applicant
4 receives mail at an address different from his or her residence
5 address.

6 (b) ~~If~~**EXCEPT AS PROVIDED IN SECTION 307C, IF** the applicant is
7 not a citizen of the United States, the applicant shall provide,
8 and the department shall verify, documents demonstrating his or her
9 legal presence in the United States. Nothing in this act shall
10 obligate or be construed to obligate this state to comply with
11 title II of the real ID act of 2005, Public Law 109-13. The
12 secretary of state may adopt rules under the administrative
13 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as are
14 necessary for the administration of this subdivision. A
15 determination by the secretary of state that an applicant is not
16 legally present in the United States may be appealed under section
17 631 of the revised judicature act of 1961, 1961 PA 236, MCL
18 600.631.

19 (c) The following notice shall be included to inform the
20 applicant that under sections 509o and 509r of the Michigan
21 election law, 1954 PA 116, MCL 168.509o and 168.509r, the secretary
22 of state is required to use the residence address provided on this
23 application as the applicant's residence address on the qualified
24 voter file for voter registration and voting:

25 "NOTICE: Michigan law requires that the same address
26 be used for voter registration and driver license
27 purposes. Therefore, if the residence address

1 you provide in this application differs from your
2 voter registration address as it appears on the
3 qualified voter file, the secretary of state
4 will automatically change your voter registration
5 to match the residence address on this application,
6 after which your voter registration at your former
7 address will no longer be valid for voting purposes.
8 A new voter registration card, containing the
9 information of your polling place, will be provided
10 to you by the clerk of the jurisdiction where your
11 residence address is located.".

12 (d) For an original or renewal operator's or chauffeur's
13 license with a vehicle group designation or indorsement, the names
14 of all states where the applicant has been licensed to drive any
15 type of motor vehicle during the previous 10 years.

16 (e) For an operator's or chauffeur's license with a vehicle
17 group designation or indorsement, the following certifications by
18 the applicant:

19 (i) The applicant meets the applicable federal driver
20 qualification requirements under 49 CFR parts 383 and 391 or meets
21 the applicable qualifications of the department of state police
22 under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11
23 to 480.25.

24 (ii) The vehicle in which the applicant will take the driving
25 skills tests is representative of the type of vehicle the
26 applicant operates or intends to operate.

27 (iii) The applicant is not subject to disqualification by the

1 United States Secretary of Transportation, or a suspension,
2 revocation, or cancellation under any state law for conviction of
3 an offense described in section 312f or 319b.

4 (iv) The applicant does not have a driver's license from more
5 than 1 state or jurisdiction.

6 (f) An applicant for an operator's or chauffeur's license with
7 a vehicle group designation and a hazardous material indorsement
8 shall provide his or her fingerprints as prescribed by state and
9 federal law.

10 (2) An applicant for an operator's or chauffeur's license may
11 have his or her image and signature captured or reproduced when the
12 application for the license is made. The secretary of state shall
13 acquire equipment purchased or leased under this section under
14 standard purchasing procedures of the department of technology,
15 management, and budget based on standards and specifications
16 established by the secretary of state. The secretary of state shall
17 not purchase or lease equipment until an appropriation for the
18 equipment has been made by the legislature. A digital photographic
19 image and signature captured under this section shall appear on the
20 applicant's operator's license or chauffeur's license. A person's
21 digital photographic image and signature shall be used as follows:

22 (a) By a federal, state, or local governmental agency for a
23 law enforcement purpose authorized by law.

24 (b) By the secretary of state for a use specifically
25 authorized by law.

26 (c) By the secretary of state for forwarding to the department
27 of state police the images of persons required to be registered

1 under the sex offenders registration act, 1994 PA 295, MCL 28.721
2 to 28.736, upon the department of state police providing the
3 secretary of state an updated list of the names of those persons.

4 (d) As necessary to comply with a law of this state or of the
5 United States.

6 (3) An application shall contain a signature or verification
7 and certification by the applicant, as determined by the secretary
8 of state, and shall be accompanied by the proper fee. The secretary
9 of state shall collect the application fee with the application.

10 The secretary of state shall refund the application fee to the
11 applicant if the license applied for is denied, but shall not
12 refund the fee to an applicant who fails to complete the
13 examination requirements of the secretary of state within 90 days
14 after the date of application for a license.

15 (4) In conjunction with the application for an operator's
16 license or chauffeur's license, the secretary of state shall do all
17 of the following:

18 (a) Provide the applicant with all of the following:

19 (i) Information explaining the applicant's right to make an
20 anatomical gift in the event of death in accordance with section
21 310.

22 (ii) Information describing the anatomical gift donor registry
23 program under part 101 of the public health code, 1978 PA 368, MCL
24 333.10101 to 333.10123. The information required under this
25 subparagraph includes the address and telephone number of
26 Michigan's federally designated organ procurement organization or
27 its successor organization as defined in section 10102 of the

1 public health code, 1978 PA 368, MCL 333.10102.

2 (iii) Information giving the applicant the opportunity to be
3 placed on the donor registry described in subparagraph (ii).

4 (b) Provide the applicant with the opportunity to specify on
5 his or her operator's or chauffeur's license that he or she is
6 willing to make an anatomical gift in the event of death in
7 accordance with section 310.

8 (c) Inform the applicant that, if he or she indicates to the
9 secretary of state under this section a willingness to have his or
10 her name placed on the donor registry described in subdivision
11 (a) (ii), the secretary of state will mark the applicant's record
12 for the donor registry.

13 (5) The secretary of state may fulfill the requirements of
14 subsection (4) by 1 or more of the following methods:

15 (a) Providing printed material enclosed with a mailed notice
16 for an operator's or chauffeur's license renewal or the issuance of
17 an operator's or chauffeur's license.

18 (b) Providing printed material to an applicant who personally
19 appears at a secretary of state branch office.

20 (c) Through electronic information transmittals for operator's
21 and chauffeur's licenses processed by electronic means.

22 (6) The secretary of state shall maintain a record of an
23 individual who indicates a willingness to have his or her name
24 placed on the donor registry described in subsection (4) (a) (ii).
25 Information about an applicant's indication of a willingness to
26 have his or her name placed on the donor registry that is obtained
27 by the secretary of state under subsection (4) and forwarded under

1 subsection (14) is exempt from disclosure under section 13(1)(d) of
2 the freedom of information act, 1976 PA 442, MCL 15.243.

3 (7) If an application is received from a person previously
4 licensed in another jurisdiction, the secretary of state shall
5 request a copy of the applicant's driving record and other
6 available information from the national driver register. When
7 received, the driving record and other available information become
8 a part of the driver's record in this state.

9 (8) If a person applies for a commercial learner's permit for
10 an original vehicle group designation or indorsement to operate a
11 commercial motor vehicle, the secretary of state may verify the
12 person's identity, may require proof of Michigan domicile under 49
13 CFR 383.5, and may verify the person's proof of United States
14 citizenship or proof of lawful permanent residency as required
15 under 49 CFR 383.71 and 383.73, if that information is not on the
16 person's Michigan driving record. If a person applies for a renewal
17 of an operator's or chauffeur's license to operate a commercial
18 motor vehicle, the secretary of state may verify the person's
19 identity, may require proof of Michigan domicile under 49 CFR
20 383.5, and may verify the person's proof of citizenship or lawful
21 permanent residency under 49 CFR 383.71 and 383.73, if that
22 information is not on the person's Michigan driving record. If a
23 person applies for an upgrade of a vehicle group designation or
24 indorsement, the secretary of state may verify the person's
25 identity, may require proof of Michigan domicile under 49 CFR
26 383.5, and may verify the person's proof of citizenship or lawful
27 permanent residency under 49 CFR 383.71 and 383.73, if that

1 information is not on the person's Michigan driving record. The
2 secretary of state shall request the person's complete driving
3 record from all states where the applicant was previously licensed
4 to drive any type of motor vehicle over the last 10 years before
5 issuing a vehicle group designation or indorsement to the
6 applicant. If the applicant does not hold a valid commercial motor
7 vehicle driver license from a state where he or she was licensed in
8 the last 10 years, this complete driving record request must be
9 made not earlier than 24 hours before the secretary of state issues
10 the applicant a vehicle group designation or indorsement. For all
11 other drivers, this request must be made not earlier than 10 days
12 before the secretary of state issues the applicant a vehicle group
13 designation or indorsement. If the application is for the renewal
14 of a vehicle group designation or indorsement, and if the secretary
15 of state enters on the person's driving record maintained under
16 section 204a a notation that the request was made and the date of
17 the request, the secretary of state is required to request the
18 applicant's complete driving record from other states only once
19 under this section. The secretary of state shall also check the
20 applicant's driving record with the national driver register and
21 the federal commercial driver license information system before
22 issuing that group designation or indorsement.

23 (9) Except for a vehicle group designation or indorsement or
24 as provided in this subsection or section 314(5), the secretary of
25 state may issue a renewal operator's or chauffeur's license for 1
26 additional 4-year period or until the person is no longer
27 determined to be legally present under this section by mail or by

1 other methods prescribed by the secretary of state. The secretary
2 of state may check the applicant's driving record through the
3 national driver register and the commercial driver license
4 information system before issuing a license under this section. The
5 secretary of state shall issue a renewal license only in person if
6 the person is a person required under section 5a of the sex
7 offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a
8 valid operator's or chauffeur's license or official state personal
9 identification card. If a license is renewed by mail or by other
10 method, the secretary of state shall issue evidence of renewal to
11 indicate the date the license expires in the future. The department
12 of state police shall provide to the secretary of state updated
13 lists of persons required under section 5a of the sex offenders
14 registration act, 1994 PA 295, MCL 28.725a, to maintain a valid
15 operator's or chauffeur's license or official state personal
16 identification card.

17 (10) Upon request, the secretary of state shall provide an
18 information manual to an applicant explaining how to obtain a
19 vehicle group designation or indorsement. The manual shall contain
20 the information required under 49 CFR part 383.

21 (11) The secretary of state shall not disclose a social
22 security number obtained under subsection (1) to another person
23 except for use for 1 or more of the following purposes:

24 (a) Compliance with 49 USC 31301 to 31317 and regulations and
25 state law and rules related to this chapter.

26 (b) To carry out the purposes of section 466(a) of the social
27 security act, 42 USC 666, in connection with matters relating to

1 paternity, child support, or overdue child support.

2 (c) To check an applicant's driving record through the
3 national driver register and the commercial driver license
4 information system when issuing a license under this act.

5 (d) With the department of community health, for comparison
6 with vital records maintained by the department of community health
7 under part 28 of the public health code, 1978 PA 368, MCL 333.2801
8 to 333.2899.

9 (e) As otherwise required by law.

10 (12) The secretary of state shall not display a person's
11 social security number on the person's operator's or chauffeur's
12 license.

13 (13) A requirement under this section to include a social
14 security number on an application does not apply to an applicant
15 who demonstrates he or she is exempt under law from obtaining a
16 social security number.

17 (14) As required in section 10120 of the public health code,
18 1978 PA 368, MCL 333.10120, the secretary of state shall maintain
19 the donor registry in a manner that provides electronic access,
20 including, but not limited to, the transfer of data to this state's
21 federally designated organ procurement organization or its
22 successor organization, tissue banks, and eye banks, in a manner
23 that complies with that section.

24 (15) The secretary of state, with the approval of the state
25 administrative board created under 1921 PA 2, MCL 17.1 to 17.3, may
26 enter into agreements with the United States government to verify
27 whether an applicant for an operator's license or a chauffeur's

1 license under this section who is not a citizen of the United
2 States is authorized under federal law to be present in the United
3 States.

4 (16) The secretary of state shall not issue an operator's
5 license or a chauffeur's license to a person holding an operator's
6 license or chauffeur's license issued by another state without
7 confirmation that the person is terminating or has terminated the
8 operator's license or chauffeur's license issued by the other
9 state.

10 (17) The secretary of state shall do all of the following:

11 (a) Ensure the physical security of locations where operator's
12 licenses and chauffeur's licenses are produced and the security of
13 document materials and papers from which operator's licenses and
14 chauffeur's licenses are produced.

15 (b) Subject all persons authorized to manufacture or produce
16 operator's licenses or chauffeur's licenses and all persons who
17 have the ability to affect the identity information that appears on
18 operator's licenses or chauffeur's licenses to appropriate security
19 clearance requirements. The security requirements of this
20 subdivision and subdivision (a) may require that licenses be
21 manufactured or produced in this state.

22 (c) Provide fraudulent document recognition programs to
23 department of state employees engaged in the issuance of operator's
24 licenses and chauffeur's licenses.

25 (18) The secretary of state shall have electronic access to
26 prisoner information maintained by the department of corrections
27 for the purpose of verifying the identity of a prisoner who applies

1 for an operator's or chauffeur's license under subsection (1).

2 SEC. 307C. (1) NOTWITHSTANDING SECTION 307, THE DEPARTMENT
3 SHALL ISSUE AN OPERATOR'S LICENSE TO OPERATE A NONCOMMERCIAL
4 VEHICLE TO AN APPLICANT WHO IS UNABLE TO SUBMIT SUFFICIENT
5 DOCUMENTS TO VERIFY HIS OR HER IDENTITY AND LEGAL PRESENCE IN THE
6 UNITED STATES AS REQUIRED UNDER SECTION 307 OR WHO CHOOSES NOT TO
7 OBTAIN AN OPERATOR'S LICENSE THAT MEETS THE CRITERIA UNDER THE REAL
8 ID ACT OF 2005, PUBLIC LAW 109-13, IF THE APPLICANT SATISFIES ALL
9 OTHER REQUIREMENTS OF THIS SECTION, THE REQUIREMENTS OF SECTION 307
10 OTHER THAN LEGAL PRESENCE IN THE UNITED STATES, AND THE RULES
11 PROMULGATED BY THE DEPARTMENT UNDER SUBSECTION (2).

12 (2) THE DEPARTMENT SHALL, IN CONSULTATION WITH APPROPRIATE
13 INTERESTED PARTIES INCLUDING, BUT NOT LIMITED TO, LAW ENFORCEMENT
14 AND IMMIGRANTS' RIGHTS REPRESENTATIVES, PROMULGATE RULES UNDER THE
15 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
16 24.328, FOR ALL OF THE FOLLOWING PURPOSES:

17 (A) IDENTIFYING DOCUMENTS THAT ARE ACCEPTABLE TO THE
18 DEPARTMENT FOR THE PURPOSE OF PROVING IDENTITY OR MICHIGAN
19 RESIDENCY, SUBJECT TO SUBSECTION (3).

20 (B) ESTABLISHING PROCEDURES FOR VERIFYING THE AUTHENTICITY OF
21 THE DOCUMENTS DESCRIBED IN SUBDIVISION (A).

22 (C) ISSUING A TEMPORARY OPERATOR'S LICENSE PENDING THE
23 VERIFICATION OF ANY DOCUMENT'S AUTHENTICITY.

24 (D) ESTABLISHING A HEARING PROCESS FOR AN APPLICANT TO APPEAL
25 THE DENIAL OF AN OPERATOR'S LICENSE OR TEMPORARY OPERATOR'S LICENSE
26 UNDER THIS SECTION.

27 (3) ACCEPTABLE DOCUMENTS FOR PURPOSES OF PROVING IDENTITY OR

1 MICHIGAN RESIDENCY SHALL INCLUDE, BUT ARE NOT LIMITED TO, ALL OF
2 THE FOLLOWING:

3 (A) A VALID UNEXPIRED CONSULAR IDENTIFICATION DOCUMENT ISSUED
4 BY A CONSULATE FROM THE APPLICANT'S COUNTRY OF CITIZENSHIP OR A
5 VALID UNEXPIRED PASSPORT FROM THE APPLICANT'S COUNTRY OF
6 CITIZENSHIP.

7 (B) AN ORIGINAL BIRTH CERTIFICATE OR OTHER PROOF OF AGE. IF AN
8 ORIGINAL BIRTH CERTIFICATE IS IN A LANGUAGE OTHER THAN ENGLISH, THE
9 APPLICANT SHALL PROVIDE A CERTIFIED TRANSLATION OF THE BIRTH
10 CERTIFICATE.

11 (C) A HOME UTILITY BILL, LEASE OR RENTAL AGREEMENT, OR OTHER
12 PROOF OF MICHIGAN RESIDENCE.

13 (D) ONE OR MORE OF THE FOLLOWING DOCUMENTS WHICH, IF IN A
14 LANGUAGE OTHER THAN ENGLISH, SHALL BE ACCOMPANIED BY A CERTIFIED
15 TRANSLATION OR AN AFFIDAVIT OF TRANSLATION INTO ENGLISH:

16 (i) A MARRIAGE LICENSE OR DIVORCE CERTIFICATE.

17 (ii) A FOREIGN FEDERAL ELECTORAL PHOTO CARD ISSUED ON OR AFTER
18 JANUARY 1, 1991.

19 (iii) A FOREIGN DRIVER LICENSE.

20 (E) A RECEIPT FOR A UNITED STATES DEPARTMENT OF HOMELAND
21 SECURITY FORM I-589, APPLICATION FOR ASYLUM AND FOR WITHHOLDING OR
22 REMOVAL.

23 (F) AN OFFICIAL SCHOOL OR COLLEGE TRANSCRIPT THAT INCLUDES THE
24 APPLICANT'S DATE OF BIRTH, OR A FOREIGN SCHOOL RECORD THAT BEARS AN
25 OFFICIAL SEAL AND INCLUDES A PHOTOGRAPH OF THE APPLICANT AT THE AGE
26 THE RECORD WAS ISSUED.

27 (G) A UNITED STATES DEPARTMENT OF HOMELAND SECURITY FORM I-20

1 OR FORM DS-2019.

2 (H) A DEED OR TITLE TO REAL PROPERTY.

3 (I) A PROPERTY TAX BILL OR STATEMENT ISSUED WITHIN THE 12
4 MONTHS PRECEDING THE DATE OF APPLICATION.

5 (J) AN INCOME TAX RETURN.

6 (4) AN OPERATOR'S LICENSE ISSUED UNDER THIS SECTION, INCLUDING
7 A TEMPORARY OPERATOR'S LICENSE, SHALL INCLUDE A RECOGNIZABLE
8 FEATURE ON THE FRONT OF THE LICENSE INDICATING THAT IT IS NOT VALID
9 FOR OFFICIAL FEDERAL PURPOSES, AND SHALL ALSO CONTAIN AN INDICATION
10 THAT THE LICENSE IS NOT VALID FOR OFFICIAL FEDERAL PURPOSES IN
11 ELECTRONIC OR MACHINE READABLE CODES.

12 (5) A PERSON SHALL NOT DISCRIMINATE AGAINST AN INDIVIDUAL
13 BECAUSE THAT INDIVIDUAL HOLDS OR PRESENTS AN OPERATOR'S LICENSE OR
14 A TEMPORARY OPERATOR'S LICENSE ISSUED UNDER THIS SECTION.

15 (6) A POLICE OFFICER SHALL NOT DETAIN, ARREST, PENALIZE, OR
16 DISCRIMINATE AGAINST AN INDIVIDUAL BASED SOLELY ON THAT
17 INDIVIDUAL'S PRESENTATION OF AN OPERATOR'S LICENSE OR A TEMPORARY
18 OPERATOR'S LICENSE ISSUED UNDER THIS SECTION.

19 (7) EXCEPT WHEN NECESSARY TO COMPLY WITH A JUDICIALLY ISSUED
20 WARRANT OR SUBPOENA, INFORMATION COLLECTED UNDER THIS SECTION IS
21 NOT SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT,
22 1976 PA 442, MCL 15.231 TO 15.246.

23 (8) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, INFORMATION
24 REGARDING AN APPLICANT'S SOCIAL SECURITY NUMBER OR INELIGIBILITY
25 FOR A SOCIAL SECURITY NUMBER OBTAINED BY THE DEPARTMENT UNDER THIS
26 SECTION IS NOT SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF
27 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

1 (9) AS USED IN THIS SECTION, "MICHIGAN RESIDENCY" MEANS THAT
2 AN INDIVIDUAL MAINTAINS A SETTLED HOME OR DOMICILE IN THIS STATE AT
3 WHICH THE INDIVIDUAL RESIDES AND THAT MEETS THE DEFINITION OF
4 RESIDENCE AS DEFINED IN SECTION 11 OF THE MICHIGAN ELECTION LAW,
5 1954 PA 116, MCL 168.11, EXCEPT FOR A TEMPORARY ABSENCE. MICHIGAN
6 RESIDENCY DOES NOT REQUIRE THAT THE INDIVIDUAL BE A UNITED STATES
7 CITIZEN OR LAWFULLY PRESENT IN THE UNITED STATES.