



Senate Fiscal Agency
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Senate Bill 278 (Substitute S-2 as reported)
Senate Bill 279 (Substitute S-1 as reported)
Sponsor: Senator Tom Barrett (S.B. 278)
Senator Curtis Hertel, Jr. (S.B. 279)
Committee: Transportation and Infrastructure

Date Completed: 7-10-19

RATIONALE

Although police officers and emergency first responders receive training, these personnel often arrive on the scene of an accident, traffic stop, or an emergency with little knowledge about the situations or the individuals they will encounter. Among other individuals, officers could encounter an individual with a developmental disability. Generally, developmental disabilities impair an individual's physical, language, learning, or behavior skills. According to the Center for Disease Control and Prevention, recent estimates of developmental disabilities in the United States suggest that approximately 15% of children aged three to 17 have a developmental disability, such as hearing loss or autism spectrum disorder, which can carry forward into adulthood.

People with these disabilities also often have sensory sensitivities and other medical issues. These sensitivities and medical issues, when compounded with the impairments described above, can create uncomfortable, insecure situations for people with developmental disabilities under normal circumstances. Encounters with law enforcement can heighten the discomfort, which can lead to escalation if an officer is unaware or ignorant of these tendencies. To address this issue, it has been suggested that people with communications impediments be allowed the option to voluntarily disclose this information on their vehicle registration or operator's or chauffer's license.

CONTENT

Senate Bill 278 (S-2) would amend the Michigan Vehicle Code to do the following:

- **Allow the owner of a motor vehicle who was applying for a vehicle registration or a renewal of a vehicle registration to elect a communication impediment designation if he or she provided to the Secretary of State (SOS) a certification signed by a licensed medical professional that identified the individual for whom the designation was being elected and the nature of the impediment.**
- **Allow an applicant for an original or renewal operator's or chauffer's license to elect a communication impediment designation if he or she provided to the SOS a certification described above.**
- **Prohibit a person from intentionally making a false statement of material fact or committing or attempting to commit deception or fraud while seeking an election, and prescribe a misdemeanor penalty for a violation.**
- **Provide certain circumstances under which the SOS could cancel or revoke a communication impediment designation.**

Senate Bill 279 (S-1) would amend the Enhanced Driver License and Enhanced Official State Personal Identification Card Act to do the following:

- Require the SOS to allow an applicant for an enhanced driver license to elect a communication impediment designation.**
- Authorize the SOS to cancel or revoke a communication impediment designation under circumstances prescribed by Senate Bill 278 (S-2).**

Senate Bill 279 (S-1) is tie-barred to Senate Bill 278. Senate Bill 278 (S-2) would take effect on July 1, 2021.

Senate Bill 278 (S-2)

Vehicle Registration

The Code requires the SOS to create and maintain a computerized central file of all applications for registration of motor vehicles and is not required to retain any other record of the application. The computerized central file must be interfaced with the Law Enforcement Information Network (LEIN).

The bill would require the SOS to allow the owner of a motor vehicle who was applying for a vehicle registration or for renewal of a vehicle registration and met certain requirements to elect a communication impediment designation on the application maintained in the central file or in another appropriate system that limited access to law enforcement that would allow law enforcement agencies of the State to view a communication impediment designation with a registration.

Related to a motor vehicle registration, "communication impediment" would mean the owner of a motor vehicle, or an individual who resided in the same household as the owner of the motor vehicle, had one or more one or more of the following health conditions that could impede communication with a police officer during a traffic stop: a) deafness or hearing loss, or b) an autism disorder.

An owner of a motor vehicle seeking an election for a communication impediment as described above would have to provide to the SOS a certification that met the following requirements:

- Was signed by a physician, physician assistant, certified nurse practitioner, or physical therapist licensed to practice in Michigan.
- Identified the individual for whom the communication impediment designation was being elected.
- Attested to the nature of the communication impediment.

A person who intentionally made a false statement of material fact or committed or attempted to commit a deception or fraud on a statement described above would be guilty of a misdemeanor punishable by imprisonment for up to 30 days or a fine of not more than \$500, or both.

The SOS could cancel or revoke a communication impediment designation if it determined that a communication impediment designation was fraudulently or erroneously elected, or that the communication impediment designation was abused during a traffic stop. The SOS would have to provide the owner of a motor vehicle notice and an opportunity to be heard before canceling or revoking a communication impediment.

Operator and Chauffeur's License

Under the Code, the SOS must issue an operator's license to each person licensed as an operator and a chauffeur's license to each person licensed as a chauffeur. The SOS may not require an applicant for an original or renewal operator's or chauffeur's license to provide emergency contact information as a condition to obtain a license; however, the SOS may inquire whether an operator or chauffeur would like to provide emergency contact information. The bill would allow an operator or chauffeur who met certain requirements described below to elect a communication impediment designation.

Related to an operator's or chauffeur's license, "communication impediment" would mean the operator or chauffeur had one or more of the following health conditions that could impede communication with a police officer during a traffic stop: a) deafness or hearing loss, or b) an autism disorder.

An operator or chauffeur seeking an election for a communication impediment designation would have to provide to the SOS a certification that met all of the following:

- Was signed by a physician, physician assistant, certified nurse practitioner, or physical therapist licensed to practice in Michigan.
- Identified the individual for whom the communication impediment designation was being elected.
- Attested to the nature of the communication impediment.

A person who intentionally made a false statement of material fact or committed or attempted to commit a deception or fraud on a statement described above would be guilty of a misdemeanor punishable by imprisonment for up to 30 days or a fine of not more than \$500, or both.

The SOS could cancel or revoke a communication impediment designation if the SOS determined that a designation was fraudulently or erroneously elected, or that the communication impediment designation was abused during a traffic stop. The SOS would have to provide the owner of a motor vehicle notice and an opportunity to be heard before canceling or revoking a communication impediment.

The Code currently requires the SOS to develop and implement in conjunction with the Department of State Police, a process using LEIN or another appropriate system that limits access to law enforcement that would allow law enforcement agencies of the State to access emergency contact information that the licensee has provided to the SOS. Under the bill, the process would have to allow law enforcement agencies to view a communication impediment designation.

Senate Bill 279 (S-1)

The Act authorizes the SOS to issue an enhanced driver license or enhanced official State personal identification card to an applicant who provides satisfactory proof of his or her full legal name, United States citizenship, identity, date of birth, Social Security number, residence address, and a photographic identity document. An enhanced driver license is an operator's or chauffeur's license for use in entering the United States at land and at sea ports and use in the same manner as a driver's license.

Under the bill, the SOS would have to allow, as provided under Section 310 of the Vehicle Code (which Senate Bill 278 (S-2) would amend), an applicant for an enhanced driver license to elect a communication impediment designation and implement the process to allow law

enforcement agencies of the State to view a communication impediment designation that the holder of an enhanced driver license had voluntarily provided to the SOS.

In addition, the SOS could cancel or revoke a communication impediment designation under the bill for fraud or improper use of the designation. The SOS would have to provide the holder of an enhanced driver license notice and an opportunity to be heard before canceling or revoking a communication impediment designation.

An enhanced driver license or enhanced official State personal ID card currently may not display a person's Social Security number on the face of the card. Under the bill, if applicable, the enhanced driver license or enhanced official State personal ID card could not display a communication impediment designation on the face of the card.

MCL 257.221 & 257.310 (S.B. 278)
28.305 (S.B. 279)

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

Training and protocols can prevent negative interactions between police officers and residents during traffic stops. According to testimony before the Senate Transportation and Infrastructure Committee, police departments across the State have implemented de-escalation training for this purpose. Training with a focus on interactions with autistic individuals also has been recommended among other protocols; however, people with communications impediments could react to sensory stimulation before having an encounter with an officer during a traffic stop. Overstimulation can lead to some common autistic behaviors, such as self-stimulatory behavior, also known as "stimming". Stimming frequently manifests in people with autism through hand flapping, back-and-forth rocking, or loud noises, among other things.

Officers often can misinterpret stimming as erratic and suspicious behavior. For example, a violent encounter between a police officer and a teenager with autism in Arizona made national news in 2017 after the officer approached the teenager in a park and mistook his stimming behavior as a sign of drug use.¹ The teenager told the officer he was stimming, but the officer detained and tackled him, causing bruises and abrasions, and an injury to his ankle which required surgery. Misinterpretations such as these also can occur during traffic stops between a person with autism or other communication impediment and a police officer. Many informational articles on the issue stress the need for proper evaluation of stimming, unusual eye contact, or speaking patterns during routine traffic stop encounters.

These situations demonstrate the need for awareness of autism and communications impediment. In these instances, an officer and the individual with autism would benefit from a voluntarily elected communication impediment designation on the vehicle's registration. When approaching a vehicle with the designation, an officer could adopt a different disposition or approach to the traffic stop from the outset, altogether avoiding the necessity for de-escalation.

¹ Egeland, Alexis, "Police video shows Buckeye officer detain autistic teen he thought was using drugs", *AZ Central*, 9-18-17.

Supporting Argument

The voluntary election of medical information to emergency and safety personnel is not a new concept. "Smart 9-1-1", a program that allows users to disclose critical health and personal information through a secure application, has been adopted in many counties and communities across the State. The application provides important information, voluntarily disclosed by a user, to a 9-1-1 operator during an emergency call, which can assist in response time and proper treatment during emergency situations. Similar to the concept of "Smart 9-1-1", a voluntary election of a communication impediment on a vehicle registration or on an operator's or chauffeur's license could facilitate safer interactions between police officers or medical personnel and people with developmental disabilities, such as those with autism or hearing loss.

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bills would increase costs to the Department of State by an indeterminate amount. The requirements to provide an option for individuals to elect a communication impediment designation on enhanced driver licenses or vehicle registrations would result in the Department having to reprogram two systems: one for the enhanced driver licenses and another for the vehicle registrations, which would result in additional costs for the Department. These costs are indeterminate and would depend on whether the changes to the systems could be incorporated into the Department's current upgrade of its computer and software systems. If not, additional programming and software updates could be necessary, which would increase the costs to the Department.

Senate Bill 278 (S-2) would have an additional negative fiscal impact on the State and local government. New misdemeanor arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, and jails. However, it is unknown how many people would be prosecuted under the bill's provisions. Any additional revenue from imposed fines would go to local libraries.

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.