

Legislative Analysis



DOCUMENTATION REQUIRED FOR ISSUANCE OF DRIVER'S LICENSE OR STATE ID CARD AND VEHICLE CODE DEFINITION OF "RESIDENT"

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House Bill 4835 as introduced
Sponsor: Rep. Padma Kuppa

House Bill 4836 as introduced
Sponsor: Rep. Rachel Hood

Committee: Rules and Competitiveness
Complete to 9-14-21

SUMMARY:

House Bills 4835 and 4836 would respectively amend the Michigan Vehicle Code and 1972 PA 222, known as the official state personal identification card act, to require the Department of State (DOS) to issue rules providing a process for issuing a noncommercial driver's license or a state personal ID card, as applicable, to an applicant who is unable to provide documents verifying his or her identity and legal presence in the United States or who chooses not to obtain a license or card that meets the criteria of the federal REAL ID Act of 2005.¹ In addition, House Bill 4835 would amend the definition of "resident" in the Michigan Vehicle Code to remove a requirement that a resident establish that he or she is legally present in the United States.

Driver's licenses and official state personal identification cards

Currently, to obtain a driver's license or state ID card, an applicant must, among other things, provide documents that are sufficient to verify his or her identity and that show that he or she is a citizen of the United States or is legally present in the United States.

Notwithstanding those provisions, the bills would require DOS to issue a noncommercial driver's license or an official state personal ID card to an applicant who is unable to submit sufficient documents to verify his or her identity and legal presence in the United States or who chooses not to obtain a license or card that complies with the REAL ID Act, as long as the applicant meets the requirements in current law for obtaining a license or card (except for legal presence in the United States and providing a Social Security number), meets the requirements described below, and complies with the rules issued by DOS as described below.

The bills would require DOS to develop and issue rules, in consultation with appropriate interested parties such as law enforcement and immigrants' rights representatives, to do all of the following:

- Identify documents that are acceptable to DOS to prove an applicant's identity or *Michigan residency*, which would have to include at least all of the following:
 - A valid unexpired passport or consular identification document issued by his or her country of citizenship.

¹ The REAL ID Act establishes federal standards for the issuance of sources of identification such as driver's licenses. Notably, beginning May 3, 2023, adult travelers will need a REAL ID-compliant license or form of identification to fly within the United States. See <https://www.tsa.gov/real-id>

- An original birth certificate or other proof of age. (The applicant would have to provide a certified translation of an original birth certificate that is in a language other than English.)
- A home utility bill, lease or rental agreement, or other proof of Michigan residence.
- One or more of the following documents (which would have to be accompanied by a certified translation or an affidavit of translation into English if they were in a language other than English):
 - A marriage license or divorce certificate.
 - A foreign federal electoral photo card issued on or after January 1, 1991.
 - A foreign driver license.
 - A receipt for a United States Department of Homeland Security Form I-589, application for asylum and for withholding of removal.
 - An official school or college transcript that includes the applicant's date of birth.
 - An official foreign school record that includes a photograph of the applicant at the age the record was issued.
 - A United States Department of Homeland Security Form I-20 or DS-2019.
 - A deed or title to real property.
 - A property tax bill or statement issued no more than 12 months before the date of application.
 - An income tax return.
- Establish procedures to verify the authenticity of the documents described above.
- Provide for issuing a temporary driver's license or ID card while the authenticity of a document described above is being verified.
- Establish a hearing process for an applicant to appeal the denial of a license or card.

Michigan residency would mean that an individual maintains a settled home or domicile in this state where he or she resides (except for temporary absences) and would not require the individual to be a United States citizen or lawfully present in the United States.

A license or card issued as above (including a temporary one) would have to indicate, through a recognizable feature on its face and through electronic or machine-readable codes, that it is not valid for official federal purposes. The feature and codes would have to be indistinguishable from those used on other licenses or cards issued by DOS that are not valid for federal purposes under the REAL ID Act.

The bills would prohibit a ***person*** from discriminating against an individual because the individual holds a license or card issued as above (including a temporary one) and would prohibit a police officer from detaining, arresting, penalizing, or discriminating against an individual based solely on that individual's possession of a license or card issued as above (including a temporary one).

Person would mean every natural person (that is, individual), firm, copartnership, association, or corporation and their legal successors.

Information collected under the above provisions would be exempt from disclosure under the Freedom of Information Act (FOIA) unless the disclosure were necessary to comply with a

warrant or subpoena issued by a court. Information regarding an individual's Social Security number, or ineligibility for one, would be exempt from disclosure under FOIA notwithstanding any other provision of law.

The bills state that a license or card prepared as above would not grant the right to vote to an individual who is not a United States citizen.

Michigan Vehicle Code defined terms

The term **resident**, for purposes of the Michigan Vehicle Code, currently means every person who resides in Michigan *and establishes that he or she is legally present in the United States*. House Bill 4835 would remove the requirement that a resident establish that he or she is legally present in the United States (the italicized language).

The term **resident** is used in eight sections of the act.² Of note, section 226(6) provides: "Except as otherwise provided in this subsection, the secretary of state, upon application and payment of the proper fee, shall issue a registration for a vehicle or a motorcycle to a **resident** that expires on the owner's birthday." Under the bill, a resident would not have to have established that he or she is legally present in the United States for purposes of this provision.

In addition, the term **nonresident** is defined for purposes of the Vehicle Code as "every person who is not a **resident** of this state." Under the bill, for purposes of the 20 sections of the act that use it, the term **nonresident** would no longer include a person who resides in Michigan and has not established that he or she is legally present in the United States.³

Finally, it may be worth noting that House Bill 4835 would not amend the definition of **residence address**, which now means "the place that is the settled home or domicile at which a person *legally* resides" as defined in the Michigan Election Law. The italicized word was added to the definition by 2008 PA 7, which amended the Vehicle Code to add provisions requiring verification of a person's legal presence in the United States. The term **residence address** is used in two sections of the act pertaining to driver's licenses.⁴

House Bill 4835 would take effect October 1, 2021. House Bill 4826 would take effect 90 days after being enacted into law.

HB 4835: MCL 257.51a et seq. and proposed MCL 257.307c

HB 4836: MCL 28.291 and 28.292 and proposed MCL 28.291b

FISCAL IMPACT:

The bills would result in both new revenue and costs for the Department of State, with the cumulative fiscal impact undetermined at this time. The secretary of state would receive increased revenue through new collection of fees from individuals who are unable to show legal residency in the state and who were previously unable to receive a state driver's license or ID card. By changing the definition of "resident" in the Michigan Vehicle Code, HB 4835 also would allow undocumented residents to register a vehicle, resulting in an indeterminate

² Sections [34](#), [226](#), [251b](#), [251d](#), [301](#), [317](#), [403a](#), and [625f](#).

³ Sections [35](#), [204a](#), [208](#), [243](#), [251b](#), [251d](#), [302](#), [302a](#), [303](#), [317](#), [319c](#), [403](#), [403a](#), [511](#), [519](#), [624b](#), [625f](#), [728](#), [749](#), and [814](#).

⁴ Sections [307](#) and [315](#).

annual increase in vehicle registration taxes, which support state and local roads, and transaction fees, which support secretary of state vehicle and driver services administration.

Both the Migration Policy Institute and the American Immigration Council estimate that nearly 100,000 driving-age undocumented immigrants reside in Michigan. Michigan ID cards have an initial and renewal fee cost of \$10 and are valid for four years. An operator's license costs an initial fee of \$25 and an annual renewal fee of \$18. Data is not available at this time to estimate how many individuals among the undocumented resident population would purchase either a driver's license or state ID card each year. A portion of all fee revenue would be offset by the cost of producing and issuing the new licenses and ID cards.

The Department of State estimates that annual costs would range between \$500,000 and \$2.0 million to comply with the requirement found in both bills to establish a hearing process for appeals made following the denial of a state ID card or driver's license. The department did not provide cost factors included in its estimate, but it is likely related to the need for additional personnel FTE costs to administer the hearing process.

In early 2008, the secretary of state implemented a 2007 opinion issued by the Michigan Attorney General that held that a person who is not a lawful resident of the United States cannot be considered a resident of Michigan for purposes of obtaining a driver's license.⁵ Prior to this opinion, all undocumented immigrants were allowed to obtain a driver's license and ID cards. While a \$1.4 million decrease in revenue from driver's license and ID card fee revenue is recorded in the years following implementation of the opinion, no discernible pattern can be attributed to the effect of the opinion. It is not yet known whether the collection of any new fee revenue would cover all or some of the administrative costs of conducting hearings or if the department would still incur costs if new costs exceed new revenues.

The bills would have no fiscal impact on local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

⁵ Opinion No. 7210: <https://www.ag.state.mi.us/opinion/datafiles/2000s/op10286.htm> Shortly after, the legislature enacted 2008 PA 7, which amended the Michigan Vehicle Code to add requirements for verification of a person's legal presence in the United States to several provisions: <http://legislature.mi.gov/doc.aspx?2007-HB-4505>