

Legislative Analysis



ENHANCED DRIVER LICENSES AND STATE ID CARDS

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House Bill 5535

Sponsor: Rep. Steve Tobocman

House Bill 5536

Sponsor: Rep. Ed Clemente

House Bill 5537

Sponsor: Rep. Bill Huizenga

Committee: Transportation

Complete to 2-6-08

A SUMMARY OF HOUSE BILLS 5535 - 5537 AS INTRODUCED 12-6-07

The bills would

- Provide for an enhanced driver license and state identification card.
- Direct the secretary of state to determine the genuineness, regularity, and legality of applications for the identification.
- Set a criminal penalty for making false statements when applying for an enhanced driver license or state ID card.

House Bills 5535 and 5537 are tie-barred to each other, so that neither could go into effect unless both were enacted. House Bill 5536 is tie-barred to House Bill 5535, so that it could not go into effect unless House Bill 5535 was enacted into law. A more detailed explanation of each bill follows.

House Bill 5535 would create a new act, to be known as "the Enhanced Driver License and Enhanced Official State Personal Identification Card Act." As introduced, the act carried an effective date of January 1, 2008.

Enhanced IDs as Proof of Identity at Borders. The bill specifies that the Secretary of State could enter into a memorandum of understanding with any federal agency to obtain approval of an enhanced driver license or enhanced official state personal ID card as proof of identity and citizenship for people entering the United States at land and sea ports. Further, the secretary could, together with a federal agency, enter into an agreement with the United Mexican States and Dominion of Canada, or a Canadian province, for the purpose of implementing a border-crossing initiative.

The enhanced driver's license or state ID card could be issued to an applicant who provided satisfactory proof of his or her legal name, U.S. citizenship, identity, date of birth, Social Security number, and residence address.

The bill specifies that an applicant could apply for either a standard driver license or ID card, or an enhanced driver license or ID card.

The enhanced driver license or state ID card would have to include reasonable security measures to protect against unauthorized disclosure of personal information. It could include facilitative technology that was secure from unauthorized data access. If it did so, an applicant would be required to sign a declaration acknowledging his or her understanding of the technology.

The holder of an enhanced drive license would be subject to every licensing sanction provided under the Michigan Vehicle Code.

Applications for Enhanced Licenses and ID Cards. An applicant who chose to apply for an enhanced driver license or enhanced state ID card would have to provide several items to the Secretary of State, including:

- A completed application (indicating the applicant's full legal name; any legal name change resulting from the applicant's adoption, marriage divorce, or a court order; date of birth; residence address; height; gender; eye color; Social Security number; signature; and if applicable, the applicant's intention to be an organ donor);
- Documentation confirming the criteria noted above.
- The applicant's signed certification that the information presented is true and correct.
- A \$50 fee.

Use of Photographs and Signatures. An applicant would have to allow the Secretary of State's office to take a photograph and a signature, and those could be used by any federal, state, or local government agency for law enforcement purposes. To use the photograph and signature for other purposes, the Secretary of State would be required to get written authorization from the applicant.

The bill prohibits the display of a person's Social Security number on the face of the enhanced license or card.

Following an investigation, the Secretary of State could reject any application if not satisfied of the genuineness, regularity, and legality of the supporting documentation, or the truth of any statement.

The Secretary of State would be required to retain copies of digital images of documents provided by the applicant, and could disclose them to a federal, state, or local government agency for any law enforcement purpose. Copies or digital images of documents retained would be exempt from disclosure under the Freedom of Information Act.

The photos of the applicants would be retained for one year, unless fraud were suspected, in which case photos would have to be kept for 10 years.

New Fund. The bill specifies that an Enhanced Driver License and Enhanced Official State Personal Identification Card Fund be created within the state treasury. The State Treasurer could receive money or other assets from any source for deposit into the fund, and would direct the investment of the fund. Money in the fund at the close of the fiscal year would

remain there, and not lapse to the General Fund. The Secretary of State would administer the fund for auditing purposes, and would be required to spend money from the fund upon appropriation, to pay the necessary expenses incurred by the secretary of state in the administrator and enforcement of this act.

Application Fee & Fund Disbursement. An application for an enhanced driver license or state ID card would have to be accompanied by a \$50 fee, and the fee for renewal could not be more than \$50. (The fees would be non-refundable, except in the case of administrative error.) The money from the fees would be deposited into the Enhanced Driver License and Enhanced Official State Personal Identification Card Fund, after distribution, as follows:

- The Secretary of State would refund to each county or municipality acting as an examining officer or examining bureau \$2.50 for each applicant examined for an original enhanced driver license, if the application is not denied and the money refunded is paid to the county or local treasurer and is appropriated to the county, municipality, or officer or bureau receiving the money for the purpose of carrying out this act.
- The State Treasurer would deposit the sum of \$4 to the Traffic Law Enforcement and Safety Fund for each person examined for an original enhanced driver license.
- Except as otherwise provided below, \$4.50 of an original enhanced license and \$6 of a renewal would be appropriated to the Transportation Economic Development Fund.
- Notwithstanding the appropriation above, \$2.5 million would be deposited in the state treasury and credited to the General Fund, except that not more than \$1 million would be credited to the Gasoline Inspection and Testing Fund.
- The money remaining after the other distributions would remain in the Enhanced Driver License and State ID Card Fund.

Penalty. A person who made a false certification or statement when applying for an enhanced driver license or enhanced official state personal identification card would be guilty of a felony punishable by imprisonment for not more than five years, or a fine of not more than \$5,000, or both.

House Bill 5537 would amend Public Act 222 of 1972, which authorizes the creation of the state's personal identification card, to revise the requirements for applications.

Currently the law specifies what personal information (maintained from a record made during the application process) may be disclosed by the Secretary of State, listing particular instances when the release of information is authorized. House Bill 5537 would retain these provisions. In addition, the bill would allow the Secretary of State to disclose copies of images of source documents retained under the Enhanced Driver License and Enhanced Official State Personal Identification Card Act (that is, the act that would be created by House Bill 5535) in order to comply with federal, state, or local governmental agencies including a court or law enforcement agency, and to assist individual applicants themselves.

The bill would require the Department of State to examine and determine the genuineness, regularity, and legality of every application for an official state identification card. It would also allow the department to make an investigation, if necessary. Officials in the department would be required to reject any application if they were not satisfied with its legality, or the truth of any of its statements, or for any other reason authorized under the law.

House Bill 5536 would amend the Code of Criminal Procedure (MCL 777.11b) to create a new sentencing guideline for the crime of "false certification or statement in application for enhanced driver license or enhanced official state personal identification card." The crime would be a Class E public safety crime which if violated would carry a maximum penalty of five years in prison.

FISCAL IMPACT:

A fiscal analysis of the impact on the state of implementing the bills is in process.

Any fiscal impact on state or local correctional systems would depend on how many offenders were convicted under the bills' criminal penalties for making a false certification. There are no data to indicate how many offenders might be affected. The felony to be created would be a Class E offense against public safety. Exclusive of sentences for habitual offenders, sentencing guidelines ranges for the minimum sentence for a Class E offense vary from 0-3 months (for which a nonprison sanction is required) to 24-38 months (for which a prison term is mandated).

To the extent that the bills increased the numbers of offenders sentenced to prison or to felony probation supervision, the state could experience increased costs. Average appropriated costs of prison incarceration are roughly \$32,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. Costs of parole and probation supervision average about \$2,000 per supervised offender per year. To the extent that affected offenders were sentenced to jail, affected counties could experience increased costs; jail costs vary by county.

Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

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