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 BILL ANALYSIS

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Senate Bills 494, 495, and 496 (as introduced 6-16-11)

Sponsor: Senator Phil Pavlov (S.B. 494)
Senator John Pappageorge (S.B. 495)
Senator Tom Casperson (S.B. 496)

Committee: Transportation

Date Completed: 6-21-11

CONTENT

Senate Bill 495 would amend the Michigan Vehicle Code to revise various provisions regarding driver licenses, commercial driver licenses (CDLs) and commercial motor vehicles (CMVs), and vehicle registration. Specifically, the bill would do the following:

- Delay from October 1, 2011, until October 1, 2015, the sunset on requirements that various fees be deposited in the Transportation Administration Collection Fund (TACF).
- Require a Michigan resident holding a CDL group indorsement issued by another state to apply for a license transfer within 30 days after establishing domicile in Michigan.
- Refer to Federal regulations in provisions regarding CMV driver qualifications.
- Increase from \$25 to \$35 the fee for a vehicle group designation.
- Authorize the Secretary of State (SOS) to cancel a person's vehicle group designations or indorsements under certain circumstances.
- Increase the duration of a vehicle group designation suspension for specific violations.
- Increase the civil fine for a driver who violates an out-of-service order, and establish a higher fine for a second or subsequent violation.
- Revise civil fines for an employer who knowingly allows or requires an employee to operate a CMV in

violation of State law or Federal regulations.

- Disqualify a person from eligibility for apportionment of International Registration Plan fees for two years after the person was late on payment twice, rather than once.
- Revise provisions regarding the documentation a person who is not a U.S. citizen must provide in a driver license application.
- Provide that no points could be entered on a person's driving record for a violation involving texting while operating a non-CMV or a child restraint system violation.
- Require a court to notify the SOS of a person's conviction for selling or furnishing alcohol to a minor.

Senate Bill 494 would amend Public Act 222 of 1972, which provides for a State personal identification card, to revise provisions regarding the documentation a person who is not a U.S. citizen must provide in a State ID card application.

Senate Bill 496 would amend the Motor Carrier Safety Act to incorporate and revise references to Federal regulations; and repeal sections allowing exemptions from the Act's medical qualification provisions.

Senate Bill 496 is tie-barred to Senate Bill 495. The bills are described below in further detail.

Senate Bill 495

Transportation Administration Collection Fund

The Michigan Vehicle Code prescribes fees for various vehicle registration purposes, and requires that these fees be deposited in the TACF. Upon appropriation, the Department of State may spend money from

the TACF to pay administration and enforcement expenses. In addition, the Department of Treasury may spend TACF money, upon appropriation, to defray the costs of collecting motor fuel taxes.

The fees shown in Table 1 must be credited to the TACF until October 1, 2011. Under the bill, these fees would have to be deposited in the TACF until October 1, 2015.

Table 1

Section	Fee
208b - SOS commercial look-up service for Vehicle Code records	Specified annually by Legislature, or market-based price fixed by SOS
217a - Amateur radio licensee call letter license plate	\$2 service fee
232 - SOS bulk sale of driver/motor vehicle records	Market-based price fixed by SOS
802 - Miscellaneous service fees	\$5-\$20
803b - Personalized license plate	\$8 service fee for first month and \$2 for each additional month; \$5 for duplicate
803r - Military/veteran license plates	\$5 service fee
803r - Special organization plate	\$500 service fee for initial design
804 - Distinctive/commemorative plate	\$5 service fee
804 - Duplicate/replacement plate - standard, personalized, veteran, other unspecified	\$5 service fee
804 - Duplicate/replacement plate - special organization, fund-raising	\$10 service fee
806 - Certificate of title	\$3 service fee, additional \$5 for expeditious treatment
809 - Transfer of vehicle registration	\$8
811e - Fund-raising license plate	\$15,000 start-up fee; \$2,000 redesign fee
811h - Fund-raising plate, collector plate	\$10 service fee
811h- Commercial/other use of fund-raising/collector plate image	Royalty fee specified in written agreement

The Code prescribes an annual registration tax according to a schedule based on the type and weight of the vehicle. For certain vehicles, the tax is increased by the following amounts until October 1, 2015:

- A regulatory fee of \$2.25, which is credited to the Traffic Law Enforcement and Safety Fund.
- A fee of \$5.75, which is credited to the TACF.

The bill would delay the sunset on these fees until October 1, 2015.

CMV Revisions

Vehicle Group Designation Denial. The Code requires the SOS to deny issuance of a vehicle group designation to a person who has been disqualified by the U.S. Secretary of Transportation from operating a CMV.

Under the bill, beginning January 30, 2012, the SOS also would have to deny issuance of a vehicle group designation to a person who did not meet the requirements of 49 CFR 383 and 391 by refusing to certify the type of CMV operation he or she intended to perform and, if required, failed to present to the SOS a valid medical certification.

(Title 49, Part 383 of the Code of Federal Regulations prescribes CDL standards, including requirements and penalties. Part 391 prescribes qualifications of drivers and longer combination vehicle driver instructors.)

Temporary Instruction Permit. Under the Vehicle Code, upon receiving proper application from a person who is at least 18 years old, who holds a valid operator's or chauffeur's license, and who has passed the knowledge test for an original vehicle group

designation or indorsement, the SOS may issue a temporary instruction permit entitling the person to drive a vehicle requiring a group designation or indorsement for 180 days when accompanied by a licensed adult operator or chauffeur who is licensed with the appropriate designation and indorsement. Under the bill, a person also would have to be approved for a hazardous materials endorsement by the Transportation Security Administration (TSA).

Designation/Indorsement Application. An application for an operator's or chauffeur's license must contain specific information. For a license with a vehicle group designation or indorsement, the application must contain a certification by the applicant that he or she meets the applicable Federal driver qualification requirements under 49 CFR Part 391, if he or she operates or intends to operate in interstate commerce. Under the bill, the applicant also would have to certify that he or she met the applicable requirements under Part 383 of the Federal regulations.

Designation/Indorsement on License. For an operator's or chauffeur's license that contains a vehicle group designation, the SOS must issue a license that contains the designation and any indorsement of a CMV the licensee is authorized to operate. The bill also would require the license to contain any restriction of a CMV the licensee was authorized to operate. This information would have to be included in accordance with Federal regulations.

Designation/Indorsement Fee. Under the Code, the holder of an unexpired operator's or chauffeur's license may be issued a vehicle group designation and indorsement valid for the remainder of the license upon payment of the original group designation fee of \$25 and an indorsement fee of \$5 per indorsement, and a corrected license fee of \$18. The bill would increase the original group designation fee to \$35.

Hazardous Materials Indorsement Qualifications. The Code requires a person to be at least 21 years old and pass knowledge and driving skills tests that comply with Federal requirements before being issued a hazardous material indorsement. Under the bill, the person also

would have to be approved by the TSA for a hazardous materials endorsement.

Designation & Indorsement Denial/Cancelation. The Code prohibits the SOS from issuing a group designation or vehicle indorsement to an applicant for an original designation or indorsement under certain conditions, such as an applicant's disqualification from operating a CMV in another state, license suspension, or conviction of certain Code violations. Under the bill, the SOS also could cancel all vehicle group designations or endorsements on a person's operator's or chauffeur's license under any of these conditions.

One of the conditions is that the applicant has had his or her license suspended or revoked in the 36 months before application, either in Michigan or another state. This condition does not apply to certain violations. The bill would include among the excluded offenses a violation of Section 732a of the Code or Section 30 of the Support and Parenting Time Enforcement Act.

(Section 732a of the Code imposes a "driver responsibility fee" on a person who accumulates at least seven points on his or her license in a two-year period, and imposes additional fees for specific Code violations. The SOS must suspend the license of a person who fails to pay the fee. Section 30 of the Support and Parenting Time Enforcement Act pertains to a license suspension ordered in response to a child support arrearage.)

The bill would add to the conditions an applicant's failure to satisfy regulations under 49 CFR Parts 383 and 391 by refusing to certify the type of CMV operation he or she intended to perform and failing to present valid medical certification required under 49 CFR 383.71 and 391.45 and Section 2d of the Motor Carrier Safety Act (which Senate Bill 496 would amend, as described below).

In addition, the bill would prohibit the SOS from issuing a designation or indorsement, and would allow the SOS to cancel a designation or indorsement, if an applicant had been disqualified from operating a CMV due to fraudulent testing.

Designation Renewal/Upgrade. The bill would prohibit the SOS from renewing or upgrading a vehicle group designation if, on or after January 30, 2012, the applicant failed to meet the requirements of 49 CFR Parts 383 and 391 by refusing to certify the type of CMV operation the applicant intended to perform and failing to present to the SOS medical certification required under the Federal regulations and the Motor Carrier Safety Act, if required to do so.

Interstate/Intrastate Commerce. The Code requires the SOS to cancel all vehicle group designations on a person's license upon receiving proper notice that the person no longer meets the Federal driver qualification requirements under 49 CFR Part 391 to operate a CMV in interstate commerce. The bill also would refer to Part 383 of the Federal regulations, as well as intrastate commerce.

Extension of Driving Privileges/License Issuance. The Code allows a person to apply for an extension of his or her driving privileges if he or she is out of State on the date that his or her license expires. The extension may extend the license for 180 days beyond the expiration date or up to two weeks after the applicant returns to Michigan, whichever occurs first. Under the bill, these provisions would not apply to a person who had not complied with the specified Federal and State requirements with regard to medical certification documentation.

The SOS may issue a renewal license to a person who will be out of State for more than 180 days beyond the expiration date of his or her license, if the SOS has a digital image of the person on file. These provisions do not apply to an operator's or chauffeur's license with a hazardous material indorsement. Under the bill, they also would not apply to a person who had not complied with the medical certification documentation requirements.

Designation Suspension. Under the Code, the SOS immediately must suspend all vehicle group designations for 60 days upon notification that a person has been convicted of or found responsible for two serious traffic violations arising from separate incidents within a 36-month period while operating a CMV. The SOS must suspend all group designations for 120 days if a person is

convicted of or found responsible for one of the following arising from separate incidents within 36 months while operating a CMV:

- Three serious traffic violations.
- Any combination of two violations involving railroad grade crossings.

The bill would require the 120-day suspension to be served consecutively with a 60-day suspension.

"Serious traffic violation" means any of the following:

- Careless driving.
- Excessive speeding.
- Improper lane use.
- Following too closely.
- Operating a CMV without obtaining any vehicle group designation.
- Operating a CMV without having a driver license in the person's possession or providing proof to the court that he or she held a valid designation and indorsement on the date the citation was issued.
- Operating a CMV while in possession of a license that has a vehicle group designation but does not have the appropriate designation or indorsement required for the specific vehicle group being operated or the passengers or type of cargo being transported.
- Any other serious traffic violation as defined in Federal regulations or as prescribed under the Code.

Beginning October 28, 2013, the bill would include texting while operating a CMV. (The Code prohibits texting while operating any type of motor vehicle. The bill would establish texting while operating a CMV as a separate violation, beginning October 28, 2013.) The bill also would refer to "reckless driving", rather than "careless driving".

The Code requires the SOS immediately to suspend for 90 days all designations on a person's license upon notification that a person has been convicted of or found responsible for a violation of Section 319d(4) or 319f. The bill would increase the suspension period to 180 days.

(Under Section 319d(4), a person who is ordered out-of-service for refusing to submit to a preliminary chemical breath analysis or chemical test under suspicion of operating a

CMV in excess of statutory alcohol content limits may not operate a CMV in Michigan for 24 hours.

Section 319f prohibits a person from operating a CMV in Michigan in violation of an out-of-service order. The bill would amend this section as described below.)

The Code also requires the suspension of a person's group designations for one year if the person is convicted of or found responsible for two violations, in any combination, of Section 319d(4) or 319f while operating a CMV arising from two or more separate incidents during a 10-year period. The bill would increase the suspension period to two years.

Suspension: Driver or Vehicle Out-of-Service Order. Under Section 319f, the SOS immediately must suspend all vehicle group designations on the license of a person convicted of violating a driver or vehicle out-of-service order. The suspension period ranges from 90 days to five years, depending on whether the person was transporting hazardous material or operating a vehicle designed to transport at least 16 passengers, and whether the offense was a person's first or a subsequent offense. The bill would delete the prescribed suspension periods, and instead require the designations to be suspended as required under 49 CFR 383.51.

Currently, a person who violates an out-of-service order must be ordered to pay a civil fine of at least \$1,100 and not more than \$2,750. Under the bill, for a first violation, the fine would be at least \$2,500 but not more than \$5,000. For a second or subsequent violation, the fine would be at least \$5,000 but not more than \$10,000.

Employer Violation. Section 319g prohibits an employer from knowingly allowing, permitting, authorizing, or requiring a driver to operate a CMV in violation of certain State laws, Federal regulations, or an out-of-service order. The bill would refer to a Federal regulation or State law or local ordinance pertaining to an out-of-service order.

Except for violations involving railroad grade crossings and out-of-service orders, an employer violator is responsible for a civil infraction. The bill specifies that a violator

would be liable for a civil fine under Section 907.

Under that section, a civil infraction carries a maximum fine of \$100 unless otherwise provided. For an employer's violation involving an out-of-service order, the minimum fine is \$2,750 and the maximum fine is \$11,000. The bill would increase the maximum fine to \$25,000. The bill would retain the maximum fine of \$10,000 for a violation involving a railroad grade crossing.

For all other violations of Section 319g or a substantially corresponding local ordinance, a person must be ordered to pay costs and a civil fine of up to \$10,000. The bill would delete this provision.

International Registration Plan Fee Apportionment. Under the Code, for a truck, truck tractor, or road tractor engaged in interstate commerce, for which a registration fee otherwise would be provided, the fee may be apportioned under the International Registration Plan according to the miles traveled in Michigan in relation to the total miles traveled by the vehicle, if the apportionment is permitted by a reciprocal compact, agreement, or other arrangement entered into the Michigan Highway Reciprocity Board.

("International Registration Plan" means a method of licensing trucks and bus fleets proportionally among two or more member jurisdictions. The Plan includes an apportioned fee that is determined according to the fleet's percentage of miles generated in the various jurisdictions.)

If the apportionment is permitted and a person elects to have the fees apportioned for a 12-month registration, the person may purchase the Plan plates by paying any out-of-State portion and half the amount apportioned for Michigan fees, as well as an extra \$10 service fee per vehicle upon purchase and the balance within 180 days before the expiration date.

If a person is late on paying the balance, a penalty of 25% of the outstanding balance is assessed and collected in addition to the fee. In addition, the person is ineligible to elect the apportionment payment plan for the next two registration years. Under the bill, the person would be ineligible for the apportionment payment plan for two years

upon being twice late in paying the balance within a two-year period.

General Driver License & Driving Record Revisions

Driver License Applicant: Documentation. Under the Code, if an applicant for an operator's or chauffeur's license is a U.S. citizen, he or she must supply a photographic identity document, a birth certificate, or other sufficient documents to verify his or her identity and citizenship. If the applicant is not a U.S. citizen, he or she must supply a photographic identity document and other sufficient documents to verify his or her identity and legal presence in the U.S. A person legally present in the U.S. includes a person authorized by the U.S. government for employment in the U.S., a person with nonimmigrant status authorized under Federal law, and a person who is the beneficiary of an approved immigrant visa petition or an approved labor certification. The bill would eliminate the references to a person's legal presence and a person legally present. Instead, a noncitizen applicant would have to provide documents demonstrating that he or she was authorized under Federal law to be present in the U.S.

The Code requires the SOS to adopt rules as necessary for the administration of these provisions. The bill would allow, rather than require, the SOS to adopt the rules.

License Points/SOS Notification. The Code requires the SOS to record the date of conviction, civil infraction determination, or probate court disposition, and the number of points for each, based on a prescribed formula. The bill would require the SOS to record this information within five days after receiving a properly prepared abstract from a court of Michigan or another state.

The Code provides that points may not be entered for certain violations. The bill would include texting while operating a vehicle other than a CMV and a violation involving a child restraint system among those for which points may not be entered.

Except for certain controlled substance offenses, the court may not submit, and the SOS must discard and not enter on the master driving record, an abstract for a conviction or civil infraction determination

for certain violations, including texting while driving. Under the bill, this provision would apply to texting while operating a vehicle other than a CMV.

The Code requires the clerk of the court to forward to the SOS an abstract of the court record upon a person's conviction for specified violations. The bill would include among these violations the sale or furnishing of alcohol to a minor.

Senate Bill 494

The bill would enact revisions regarding a State ID card applicant who is not a U.S. citizen similar to those that would apply to a noncitizen driver license applicant under Senate Bill 495. In addition, Senate Bill 494 would permit, rather than require, the SOS to adopt rules as necessary to administer the applicable provisions.

Public Act 222 of 1972 requires a State ID card to include certain information, including the applicant's signature. Under the bill, alternatively, the card could include verification and certification by the applicant.

Senate Bill 496

The bill provides that the State would adopt the motor carrier safety regulations under 49 CFR Part 383.

The Motor Carrier Safety Act prohibits a person from operating a CMV unless he or she is qualified to do so. In the case of intrastate transportation, a person is qualified to operate a CMV if he or she meets all of the requirements of 49 CFR Part 391, except the following:

- The person is at least 18 years old when transporting intrastate property or passengers, or at least 21 years old when transporting hazardous materials in a quantity that requires the vehicle to be marked or placarded under Federal regulations that pertain to the Pipeline and Hazardous Material Safety Administration.
- The person is eligible for and displays a valid medical waiver card, is excepted from the Act's medical waiver card provisions, or displays a grandfather rights card issued under the Act.

Under the bill, a grandfather rights card could be displayed until December 31, 2014. A person also would have to meet the requirements of 49 CFR Part 383 to be qualified.

Under Section 4 of the Motor Carrier Safety Act, the Act's provisions regarding an intrastate driver's medical qualifications do not apply to a driver who has been a regularly employed driver of the motor carrier for a continuous period that began on or before June 10, 1984; and who has received a grandfather rights card from the Motor Carrier Division of the Department of State Police. Grandfather rights remain valid until December 31, 2014. The exemption from medical qualification applies only to preexisting conditions before January 1, 1996. Under Section 4a, the Department of State Police was not authorized to issue new grandfather cards after October 20, 2005. The bill would repeal Sections 4 and 4a.

In the case of intrastate transportation, the provisions of 49 CFR 391.41 to 391.45, to the extent that they require a driver to be medically qualified or examined and to have a medical examiner's certificate on his or her person, do not apply to a farm vehicle driver. Under the bill, the provisions of 49 CFR 383.71 (which also requires a medical exam) also would not apply to a farm vehicle driver.

The Act and rules promulgated under it do not apply to a CMV owned and operated by a unit of government or its employees, except for certain parts of the Federal regulations. The bill would include 49 CFR 383.71(h), which requires a medical exam, among the Federal regulations that do not apply under these circumstances.

MCL 28.291 & 28.292 (S.B. 494)
257.57 (S.B. 495)
480.11a et al. (S.B. 496)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

Senate Bill 494

The bill could result in administrative savings through the use of alternative services to renew or request duplicate personal ID cards.

Senate Bill 495

Delaying sunsets on the requirement that various fees be deposited in the TACF would have an impact on the budget for the Department of State. The FY 2011-12 appropriation for the Department of State includes \$114.1 million appropriated from the TACF.

The fee increase for a vehicle group designation, from \$25 to \$35, would generate approximately \$750,000 annually.

To the extent that the revised civil infraction fines under the bill resulted in the collection of additional revenue, public libraries would benefit.

Senate Bill 496

The bill would result in administrative costs to the Department of State. The increased fee revenue in Senate Bill 495 would offset those costs.

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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.