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BILL ANALYSIS



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House Bill 5542 (as passed by the House)
House Bill 6011 (as passed by the House)
House Bill 6012 (Substitute H-2 as passed by the House)
Sponsor: Representative Jim Runestad (H.B. 5542)
Representative Jeffrey R. Noble (H.B. 6011)
Representative Steven Johnson (H.B. 6012)
House Committee: Transportation and Infrastructure
Senate Committee: Transportation

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CONTENT

House Bill 5542 would amend the Motor Carrier Safety Act to delete various provisions regarding a nonresident being stopped for a State civil infraction under the Act and the applicable procedures concerning that violation.

House Bill 6011 would enact the "Driver's License Compact" to allow the Governor of Michigan to enter into the compact on behalf of the State with any of the states of the United States who legally joined in that compact..

The compact does the following:

- Require the licensing authority of a party state to report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee.
- Require the licensing authority in the home state, for the purposes of suspension, revocation, or limitation of the license to operate a motor vehicle, to give the same effect to the conduct reported as it would if such conduct had occurred in the home state in the case of certain convictions.
- Require the licensing authority in a party state to determine whether a driver's license applicant has ever held or is the holder of a license to drive issued by any other party state.
- Prohibit a licensing authority in a state where application for a driver's license is made from issuing a license to the applicant if certain conditions apply.
- Require the head of the licensing authority of each party state to be the administrator of the Compact for his or her state.
- Allow any party state to withdraw from the Compact by enacting a statute repealing the Compact, so long as the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

House Bill 6012 (H-2) would amend the Michigan Vehicle Code to do the following:

- Require the Secretary of State (SOS) to notify the Motor Vehicle Administration or other appropriate office upon receiving a record of a certain violation by a

nonresident in Michigan, if the State had entered into an interstate compact requiring the notification.

- Require the SOS to suspend a license issued under the Code upon receiving notice of the license holder's failure to comply with a citation issued by another state if Michigan had entered into an interstate compact requiring the suspension.**
- Revise or delete provisions regarding a nonresident being stopped under Code for a civil infraction and the applicable procedures concerning that violation.**

Each bill would take effect 90 days after its enactment.

House Bill 6011 and House Bill 6012 (H-2) are tie-barred to House Bill 5542.

House Bill 5542

Generally, the Motor Carrier Safety Act requires a State civil infraction to be enforced in the manner provided in Chapter 88 (State Civil Infractions) of the Revised Judicature Act. Section 14 of the Motor Carrier Safety Act prescribes the process for enforcing State civil infractions when a person who is not a resident of the State is stopped for a State civil infraction under the Act or any rule under the Act.

The bill would delete the provisions pertaining to that process.

House Bill 6011

Driver's License Compact Authorization

The bill would enact the Driver's License Compact, and would allow the Governor of Michigan to enter into a compact as described in the bill on behalf of the State with any of the states of the United States who legally joined in that compact.

The Driver's License Compact would be entered into law and entered into with all other jurisdictions legally joining therein in substantially the form described below.

Article II--Definitions

Under Article II of the Compact, "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

"Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle. "Party state" means a state that is a party to the compact.

"Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense and which conviction or forfeiture is required to be reported to the licensing authority.

Article I--Findings & Declaration of Policy

Article I states, "The party states find that:

- The safety of their streets and highways is materially affected by the degree of compliance with state and local ordinances relating to the operation of motor vehicles.
- Violations of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.
- The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

It is the policy of each of the party states to:

- Promote compliance with the laws, ordinances and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.
- Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states."

Article III--Reports of Conviction

Under Article III, the licensing authority of a party state must report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. The report must clearly identify the person convicted, describe the violation specifying the section of the statute, code, or ordinance violated, and indicate whether a plea of guilty or not guilty was entered or the conviction was a result of the forfeiture of bail, bond, or other security and must include any special findings made.

Article IV--Effect of Conviction

Article IV requires the licensing authority in the home state, for the purposes of suspension, revocation, or limitation of the license to operate a motor vehicle, to give the same effect to the conduct reported, under Article III of the Compact, as it would if the conduct had occurred in the home state in the case of convictions for the following:

- Manslaughter or negligent homicide resulting from the operation of a motor vehicle.
- Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle.
- Any felony in the commission of which a motor vehicle is used.
- Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

As to other convictions, reported under Article III, the licensing authority in the home states must give such effect to the conduct as is provided by the laws of the home state.

If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed above, that state must construe the denominations and descriptions appearing in the provisions above as being applicable to and identifying those offenses or violations of a substantially similar nature and the laws of such party must contain such provisions as may be necessary to ensure that full force and effect is given to Article IV.

Article V--Applications for New Licenses

Under Article V, upon application for a license to drive, the licensing authority in a party state must ascertain whether the applicant has ever held or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made may not issue a license to drive to the applicant if any of the following apply:

- The applicant has held a license, but it has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.
- The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if that revocation has not terminated, except that one year after the date the license was revoked, that person may apply for a new license if permitted by law; however, the licensing authority may refuse to issue a license to any such applicant if, after investigation, the authority determines that it will not be safe to grant to him or her the privilege of driving a motor vehicle on the public highways.
- The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders the license.

Article VI--Applicability of Other Laws

Article VI specifies that, except as expressly required by provisions of the Compact, nothing contained in it must be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent a driver license agreement or other cooperative arrangement between a party state and a nonparty state.

Article VII--Compact Administrator & Interchange of Information

Under Article VII, the head of the licensing authority of each party state must be the administrator of the Compact for his or her state. The administrators, acting jointly, must have the power to formulate all necessary and proper procedures for the exchange of information under the Compact.

The administrator of each party state must furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of the Compact.

Article VIII--Entry Into Force and Withdrawal

Article VIII specifies that the Compact must enter into force and become effective as to any state when it has enacted it into law.

Any party state may withdraw from the Compact by enacting a statute repealing it, but no withdrawal can take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal can affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring before the withdrawal.

Article IX--Construction & Severability

Under Article IX, the Compact must be construed liberally so as to effectuate its purposes. The provisions of the Compact must be severable and if any phrase, clause, sentence, or provision of the Compact is declared to be contrary to the constitution of any party state or of the United States or its applicability to any government, agency, person, or circumstance is held invalid, the validity of the remainder of the Compact and its applicability to any government, agency, person, or circumstance must not be affected. If the Compact must be

held contrary to the constitution of any state party, the compact must remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

House Bill 6012 (H-2)

Nonresident Operation of Motor Vehicle

The Motor Vehicle Code allows the SOS to suspend, deny, or revoke the right of a nonresident to operate a motor vehicle in the State for a cause for which the license of a resident driver may be suspended, denied, or revoked. A resident who drives a motor vehicle upon a highway when the privilege to drive has been suspended, revoked, or denied by the SOS is guilty of a misdemeanor punishable as provided in the Code.

Under the bill, the SOS, upon receiving a record of a violation of Section 321a(1) by a nonresident in Michigan, would have to notify the Motor Vehicle Administration or other appropriate officer of the State where the nonresident was licensed of that violation. The notification would have to be given no later than six months after the date the citation was issued. This would not apply unless the Governor of Michigan had entered into an interstate compact requiring the notification. The SOS could share the information only to verify driving privileges or licensure status, to report a conviction or withdrawal, or to ensure compliance with 49 CFR 384.209. (The Federal regulation requires a state to notify the state where a violator is licensed when a person violates state or local law relating to motor vehicle traffic control.)

(Section 321a(1) specifies that a person who fails to answer a citation, or a notice to appear in court for a certain violation reportable to the SOS or a local ordinance substantially corresponding to that violation, or for any matter pending, or who fails to comply with an order of judgment of the court, including paying all fines, costs, fees, and assessments, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100, or both.)

Notice of Conviction from Other State

Under the Motor Vehicle Code, the SOS may suspend or revoke the license issued under the Code upon receiving notice of the conviction of that person in another state of an offense in that state, or the determination of responsibility of that person in an administrative adjudication in another state for a violation in that state which, if committed in this State, would be grounds for the suspension or revocation of the license of an operator or chauffeur.

Under the bill, the SOS would have to suspend a license issued under the Code after receiving notice of the license holder's failure to comply with a citation issued by another state until the SOS received satisfactory evidence of compliance from the other state. This would not apply unless the Governor of Michigan had entered into an interstate compact requiring the suspension. The SOS only could share the information to verify driving privileges or licensure status, to report a conviction or withdrawal, or to ensure compliance with 49 CFR 384.209.

Current Nonresident Violator Procedures

Currently, when a nonresident is stopped under Section 742 of the Michigan Vehicle Code for a civil infraction, the police officer making the stop must take that person's operator's license or chauffeur's license as security for the nonresident's appearance in court and satisfaction of any order that may be issued and must issue to that person a certain citation. The bill would

delete the requirement that the police officer take that person's operator's or chauffeur's license.

(Section 742 allows a police officer who witnesses a person violating the Code or a local ordinance substantially corresponding to the Code, which violation is a civil infraction, to stop the person, detain the person temporarily for purposes of making a record of vehicle check, and prepare and subscribe, as soon as possible and as completely as possible, an original and three copies of a written citation, among other things.)

Under the Code, at or before the completion of his or her tour of duty, a police officer taking the operator's license or chauffeur's license must deliver that license either to the court named in the citation or to the police chief or person authorized by the police chief to receive citations and operator's and chauffeur's licenses. The police chief or person authorized must deposit the license and citation with the court in the manner prescribed under the Code. Failure to deliver the license must be considered contempt of court. If the person does not have an operator's or chauffeur's license in immediate possession in violation of Section 301 (which prohibits a person from driving a motor vehicle upon a highway in Michigan unless that person has a valid license) or a license or the receipt described in the Code in violation of Section 311 (which requires a licensee to have his or her operator's or chauffeur's license, or the receipt described in the Code, in his or her immediate possession at all times when operating a motor vehicle, and to display it upon demand of any police officer), the officer must arrest that person. The bill would delete these provisions.

Under the Code, instead of the officer's taking the license as described above or before appearance in court, the person stopped may recognize to the officer or to the court for his or her appearance by leaving with the officer or court a guaranteed appearance certificate or a sum of money not to exceed \$100. Under the bill, the officer would have to release the nonresident on his or her personal recognizance, instead.

Return of License

If a magistrate is available for an immediate appearance, upon demand of the person stopped, the Code requires the officer to take immediately the nonresident driver before the magistrate to answer to the civil infraction alleged.

After entry of an admission of responsibility for the civil infraction, with or without explanation, or upon completion of an informal hearing, the defendant's license must be returned if judgment is entered for the defendant, if any adverse judgment entered against the defendant is satisfied, or if the defendant leaves with the court a guaranteed appearance certificate or a sum of money not to exceed \$100 as security for payment of any fines or costs ordered. The bill would delete these provisions.

Under the Code, if the nonresident defendant requests a formal hearing, the hearing must be scheduled as provided under the Code, but the defendant's license must be retained by the court until final resolution of the matter unless the defendant leaves with the court the guaranteed appearance certificate or deposit as security for appearance at the scheduled formal hearing. The bill would no longer require the court to retain the license until final resolution of the matter unless the defendant left with the court the guaranteed appearance certificate or deposit as security.

Guaranteed Appearance Certificate or Deposit of Money

The Code requires the officer receiving a guaranteed appearance certificate or deposit of money to give a receipt to the person stopped for the guaranteed appearance certificate or

the deposit together with the written citation required. At or before the completion of his or her tour of duty a police officer taking a certificate or deposit of money must deliver the certificate or deposit and the citation either to the court named in the citation or to the police chief or person authorized by the police chief to receive certificates or deposits. The police chief or person authorized must deposit the certificate or the money deposited and the citation with the court in the same manner as prescribed for citations under the Code. Failure to deliver the money deposited is embezzlement of public money. The bill would delete these provisions.

Under the Code, if the person who posts a certificate or deposit fails to appear as required in the citation or for a scheduled formal hearing, the court having jurisdiction and venue over the civil infraction must enter a default judgment against the person, and the guaranteed appearance certificate or money deposited must be forfeited and applied to any civil fine or costs ordered under the Code. Under the bill, if the person who was released on his or her personal recognizance failed to appear as required in the citation or for a scheduled formal hearing, the court having jurisdiction and venue over the civil infraction would have to enter a default judgment against that person.

As used above, "guaranteed appearance certificate" means a card of certificate containing a printed statement that a surety company authorized to do business in this State guarantees the appearance of the person whose signature appears on the card or certificate and that the company, if the person fails to appear in court at the time of a scheduled informal or formal hearing or to pay any fine or costs imposed, will pay any fine, costs, or bond forfeiture imposed on the person in a total amount not to exceed \$200. The bill would delete this provision.

MCL 480.11a & 480.24 (H.B. 5542)
257.317 et al. (H.B. 6012)

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

House Bill 5542

The bill would have an indeterminate, but likely not significant, fiscal impact on State and local law enforcement agencies. Removing a requirement that a nonresident charged with a civil infraction provide a security deposit could result in a reduction of fine revenue. The extent of this reduction is not known, as it is difficult to determine how many nonstate residents are charged with civil infractions and forfeit the deposit by choosing to not appear in court.

Revenue from civil infractions is deposited into the State Justice System Fund, per the Revised Judicature Act, and distributed annually (\$51.0 million in fiscal year 2016-17) to support a number of law enforcement related functions, including police patrols, law enforcement training, jail reimbursement programs, courts, crime labs, crime victims, child advocacy and other functions.

The bill also would result in minor administrative savings for State and local law enforcement, by removing the requirement that they transmit collected security deposits to the court in the applicable jurisdiction.

House Bill 6011

The bill could produce a minimal start-up cost for the Department of State due to programming costs to enable the required information sharing between members of the compact. The Department has indicated that these costs should be minimal and absorbable within annual appropriations.

House Bill 6012 (H-2)

The bill could result in some additional revenue to the Department of State from the \$125 reinstatement fees that would be paid by anyone who had their license suspended due to information received from another member state. Currently, a person who must have his or her driver license reinstated because of a suspension must pay a \$125 reinstatement fee to the Department of State. The amount of revenue is indeterminate and would depend on the actual number of individuals who pay the required reinstatement fee.

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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.