



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 494, 495, and 496 (as enacted)
Sponsor: Senator Phil Pavlov (S.B. 494)
 Senator John Pappageorge (S.B. 495)
 Senator Tom Casperson (S.B. 496)
Senate Committee: Transportation
House Committee: Transportation

PUBLIC ACTS 158, 159, & 160 of 2011

Date Completed: 11-17-14

CONTENT

Senate Bill 495 amended 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 does the following:

- Delays from October 1, 2011, until October 1, 2015, the sunset on requirements that various fees be deposited in the Transportation Administration Collection Fund (TACF).
- Delays from October 1, 2011, until October 1, 2015, the sunset on specific fees related to vehicle registration and certificate of title applications.
- Delays from December 31, 2012, until December 31, 2015, the sunset on a tire disposal surcharge.
- Requires 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.
- Refers to Federal regulations in provisions regarding CMV driver qualifications.
- Authorizes the Secretary of State (SOS) to cancel a person's vehicle group designations or indorsements under certain circumstances.
- Increases the duration of a vehicle group designation suspension for specific violations.
- Increases the minimum civil fine for a driver who violates an out-of-service order, and establishes a higher fine for a second or subsequent violation.
- Revises civil fines for an employer who knowingly allows or requires an employee to operate a CMV in violation of State law or Federal regulations.
- Disqualifies a person from eligibility for apportionment of International Registration Plan fees for two years after the person is late on payment twice, rather than once.
- Requires the Department of State to verify the documents a person who is not a U.S. citizen must provide in a driver license application.
- Provides that nothing in the Code obligates the State to comply with provisions of the Real ID Act regarding requirements for Federal recognition of driver licenses issued by states.
- Provides that no points may be entered on a person's driving record for a violation involving texting while operating a non-CMV or for a child restraint system violation.
- Requires a court to notify the SOS of a person's conviction for selling or furnishing alcohol to a minor.

Senate Bill 494 amended Public Act 222 of 1972, which provides for a State personal identification card, to do the following:

- **Require the Department of State to verify the documents a person who is not a U.S. citizen must provide in a State ID card application.**
- **Provide that nothing in the Act obligates the State to comply with provisions of the Real ID Act regarding requirements for Federal recognition of ID cards issued by states.**
- **Authorize the Department to cancel the State ID card of a person who provides false information on a State ID application, or who makes or uses a false State ID card or uses another person's card.**
- **Delay from October 1, 2011, until October 1, 2015, the sunset on a requirement that fees collected by the SOS for use of a commercial look-up service of records maintained under the Act be credited to the TACF.**

Senate Bill 496 amended the Motor Carrier Safety Act to incorporate and revise references to Federal regulations. The bill also repeals sections allowing exemptions from the Act's medical qualification provisions.

Senate Bill 496 was tie-barred to Senate Bill 495. All of the bills took effect on September 20, 2011.

Senate Bill 495

TACF; Fee Extensions

The Michigan Vehicle Code prescribes fees for various vehicle registration purposes, and requires that these fees be deposited in the Transportation Administration Collection Fund. 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 bill requires the fees shown in Table 1 to be credited to the TACF until October 1, 2015. Previously, these fees had to be deposited in the TACF until October 1, 2011.

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
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 bill requires the \$3 service fee for a certificate of title under Section 806 to be collected until October 1, 2015. Previously, this fee was set to expire on October 1, 2011. The bill also extended collection of a \$10 fee for a certificate of title from October 1, 2011, until October 1, 2015. In addition to the fees prescribed for a certificate of title, each applicant for a certificate of title, a salvage vehicle certificate of title, or a scrap certificate of title must pay a tire disposal surcharge of \$1.50, which the SOS must deposit into the Scrap Tire Regulatory Fund. The bill delayed the sunset on this surcharge from December 31, 2012, to December 31, 2015.

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 was increased by the following amounts until October 1, 2011:

- 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 delayed 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 must deny issuance of a vehicle group designation to a person who does not meet the requirements of 49 CFR 383 and 391 by refusing to certify the type of CMV operation he or she intends to perform and, if required, fails 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 applying for a hazardous materials indorsement also must be approved for that indorsement 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 must certify that he or she meets 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 requires the license to contain any restriction of a CMV the licensee is authorized to operate. This information must be included in accordance with Federal regulations.

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 must 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 may 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 in another state. This condition does not apply to certain violations. The bill included 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 added 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 intends to perform and failing to present valid medical certification to the SOS if required to do so.

In addition, the bill prohibits the SOS from issuing a designation or indorsement, and allows the SOS to cancel a designation or indorsement, if an applicant has been disqualified from operating a CMV due to fraudulent testing.

Designation Renewal/Upgrade. The bill prohibits the SOS from renewing or upgrading a vehicle group designation if, on or after January 30, 2012, the applicant fails to meet the requirements of 49 CFR Parts 383 and 391 by refusing to certify the type of CMV operation the applicant intends to perform and failing to present to the SOS medical certification, 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 refers 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 do not apply to a person who has not complied with the specified Federal requirements with regard to medical certification documentation.

The Code also allows SOS to issue a renewal license to a person who will be out of State for more than 180 days after his or her license expires, 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 do not apply to a person who has 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 requires the 120-day suspension to be served consecutively with a 60-day suspension.

"Serious traffic violation" means any of the following:

- 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 includes texting while operating a CMV. (The Code prohibits texting while operating any type of motor vehicle that is moving. The bill establishes texting while operating a CMV, whether or not the vehicle is moving, as a separate violation, beginning October 28, 2013.)

Previously, "careless driving" was included in the definition of "serious traffic violation." The bill refers instead to "reckless driving".

The Code requires the SOS immediately to suspend 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 increased the suspension period from 90 days 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 amended this section as described below.)

The bill also increased from one year to two years the suspension period of the group designations of a person 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.

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. Previously, the suspension period ranged 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 deleted the prescribed suspension periods, and instead requires the designations to be suspended as required under 49 CFR 383.51.

Previously, a person who violated an out-of-service order had to 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 is at least \$2,500 but not more than \$2,750. For a second or subsequent violation, the fine is at least \$5,000 but not more than \$5,500.

Employer Violation. Under the bill, Section 319g prohibits an employer from knowingly allowing, authorizing, or requiring a driver to operate a CMV in violation of a Federal regulation or State

law or local ordinance pertaining to an out-of-service order. Previously, this section referred to certain State laws, Federal regulations, or 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 must be ordered to pay 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. The bill increased the maximum fine from \$11,000 to \$25,000. The bill retained the maximum fine of \$10,000 for a violation involving a railroad grade crossing.

Previously, for all other violations of Section 319g or a substantially corresponding local ordinance, a person had to be ordered to pay costs and a civil fine of up to \$10,000. The bill deleted 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 collected in addition to the fee. Under the bill, the person is ineligible for the apportionment payment plan for two years upon being late in paying the balance twice within a two-year period. Previously, the person was ineligible after one late payment.

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. The bill requires the Department of State to verify the documents.

Previously, the Code provided that a person legally present in the U.S. included 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 eliminated this language. In addition, the bill provides that nothing in the Code obligates or may be construed to obligate the State to comply with Title II of the Real ID Act (Public Law 109-13).

(Title II of the Real ID Act prescribes minimum document requirements and issuance standards for Federal recognition of driver licenses and ID cards issued by states. Under Title II, a Federal agency may not accept, for any official purpose, a driver license or ID card issued by a state unless the state meets prescribed requirements. ("Official purpose" includes gaining access to

Federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes determined by the Secretary of Homeland Security.))

The bill allows the SOS to adopt rules as necessary for the administration of these provisions. Previously, the rule adoption was mandatory.

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 requires 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 includes 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 applies 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 includes among these violations the sale or furnishing of alcohol to a minor.

Senate Bill 494

The bill enacted revisions to Public Act 222 of 1972 regarding a State ID card applicant who is not a U.S. citizen similar to those that apply to a noncitizen driver license applicant under Senate Bill 495. In addition, Senate Bill 494 permits, rather than requires, the SOS to adopt rules as necessary to administer the applicable provisions. The bill provides that nothing in the Act obligates or may be construed to obligate the State to comply with Title II of the Real ID Act.

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

The Act prescribes criminal penalties and fines for falsely representing information on a State ID card application; altering, reproducing, counterfeiting, forging, or duplicating a State ID card, or selling or possessing such a card; and stealing or using another person's ID card. Under the bill, the Department of State also may cancel the ID card of a person who commits any of these violations. The person must return the card upon the request or order of the Department.

The SOS may provide a commercial look-up service of records maintained under the Act. For each individual record looked up, the SOS must charge a fee specified annually by the Legislature, or establish a market-based price. The bill requires the fees to be deposited in the TACF through October 1, 2015. Previously, the fees had to be deposited in the TACF through October 1, 2011.

Senate Bill 496

The bill provides that the State adopts 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 may be displayed until December 31, 2014. A person also must 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 repeals Sections 4 and 4a on December 31, 2014.

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 do 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 49 CFR. The bill includes 49 CFR 383.71(h), which requires a medical exam, among the Federal regulations that do apply.

The Act and rules promulgated under it do not apply to a school bus or a bus for which a certificate of authority was issued under the Motor Bus Transportation Act. The bill added an exception to this provision for the purpose of granting a waiver in accordance with Section 53 of the Pupil Transportation Act.

(That section requires a school bus driver to meet the physical qualifications required to operate a school bus prescribed in the Code of Federal Regulations, which include that a person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control. That requirement does not apply, however, if the driver has been granted a waiver under Section 3 of the Motor Carrier Safety Act, which prescribes a process by which a person who is not physically qualified to drive under the Federal regulations and who is otherwise qualified to drive a CMV may apply for a waiver of physical disqualification.

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

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

Senate Bill 494

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

Senate Bill 495

The bill will have an impact on the budget for the Department of State by delaying sunsets on specific fees and the requirement that various fees be deposited in the TACF. The FY 2011-12 appropriation for the Department of State included \$114.1 million appropriated from the TACF.

The fee increase for a vehicle group designation, from \$25 to \$35, will be used to defray the cost of compliance with 49 CFR Part 383 (which prescribes CDL regulations).

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

Senate Bill 496

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

Fiscal Analyst: Joe Carrasco
Dan O'Connor

S1112\494es

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.