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Senate Bill 42 (as introduced 1-27-15)  
Sponsor: Senator Tom Casperson  
Committee: Transportation

Date Completed: 1-28-15

## **CONTENT**

**The bill would amend the Michigan Vehicle Code to do the following:**

- **Modify the required vehicle group designations for operating certain commercial vehicles.**
- **Allow the Secretary of State to issue a commercial learner's permit that entitled a person to drive a vehicle requiring a vehicle group designation or indorsement, provided the person met certain conditions.**
- **Allow a person issued a commercial learner's permit by this or another jurisdiction to operate a vehicle if certain requirements were met.**
- **Authorize the Secretary of State (SOS) to verify the identity, residency, and citizenship of an applicant for a learner's permit, or operator's or chauffeur's license, to operate a commercial motor vehicle.**
- **Require an FBI and State criminal history check for vehicle group designation or indorsement examiners.**
- **Prohibit a person from fraudulently obtaining a license or permit, or failing to respond to a notice for retesting.**
- **Include any offense committed by a motor vehicle operator among the convictions and civil infraction determinations that a court may not take under advisement.**
- **Authorize the SOS to restrict, suspend, or revoke a driver license solely on the licensee's driving record within 24 months after a probationary period.**
- **Limit the accidents that trigger an extension of a six-month provisional period for a person granted level 1 or level 2 graduated license status to those that result in a moving violation.**
- **Eliminate a provision that prohibits the SOS from issuing a potentially offensive personalized registration plate.**

The bill would take effect on July 8, 2015.

### **Commercial Vehicle Group Designations & Qualifications**

Section 312e of the Code requires a person to obtain the required vehicle group designation before operating a commercial motor vehicle (CMV).

(Under the bill, similar to the current definition, "commercial motor vehicle" would mean a motor vehicle used in commerce to transport passengers or property if one or more of the following apply: a) it is designed to transport 16 or more passengers, including the driver, b) it has a gross vehicle weight rating or gross vehicle weight, whichever is greater, of 26,001 pounds or more, c) it has a gross combination weight rating or gross combination weight,

whichever is greater, of 26,001 pounds or more, inclusive of towed units with a gross vehicle weight rating or gross vehicle weight, whichever is greater, of more than 10,000 pounds, or d) it is a motor vehicle carrying hazardous material and on which must be posted a placard as defined under Federal regulations. As currently provided, a commercial vehicle would not include a vehicle used only for transport of personal possessions or family members for nonbusiness purposes.)

The Code requires a person to obtain a group A vehicle designation on his or her operator's or chauffeur's license to operate a combination of motor vehicles with a gross combination weight of 26,001 pounds or more, including a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds. Under the bill, this requirement would apply to vehicles with a gross weight rating or gross combination weight of 26,001 pounds or more, whichever was greater. As currently provided, this amount would be inclusive of towed units with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds.

A group B vehicle designation is required for a person operating a vehicle having a gross vehicle weight rating of 26,001 pounds or more. The bill would apply this requirement to a person who operated a single vehicle having a gross vehicle weight rating or gross vehicle weight, whichever was greater, of 26,001 pounds or more. This would include while towing a vehicle having a gross vehicle weight rating or gross vehicle weight of not more than 10,000 pounds.

("Gross combination weight rating" or "GCWR" would mean "a value specified by the manufacturer of the power unit if that value is displayed on the federal motor vehicle safety standard (FMVSS) certification label required by the national highway traffic safety administration".)

("Gross vehicle weight rating" or "GVWR" would mean "the sum of the gross vehicle weight ratings, or the sum of the gross vehicle weights of the power unit and towed unit or units, or any combination of the gross vehicle weight ratings and the gross vehicle weights of power unit and towed unit or units that produces the highest value". The gross combination weight rating of the power unit could not be used in determining whether the vehicle was a commercial motor vehicle when that power unit was not towing another unit.)

#### Restriction Codes & Indorsements

Currently, if a person operates a group B passenger vehicle while taking his or her driving skills test for a P indorsement, he or she is restricted to operating only group B or C passenger vehicles under that P indorsement. If a person operates a group B school bus while taking the driving skills test for an S indorsement, he or she is restricted to operating only group B or C school buses under the S indorsement. Beginning on the bill's effective date, the Secretary of State would have to place on the commercial learner's permit or commercial driver's license the following restriction code: not valid to operate a group A passenger vehicle.

If a person operates a group C passenger vehicle while taking his or her driving skills test for a P endorsement, he or she is restricted to operating only group C passenger vehicles under that P indorsement. If a person operates a group C school bus while taking the driving skills test for an S indorsement, he or she is restricted to operating only group C school buses under the S indorsement. Beginning on the bill's effective date, the SOS would have to place on the commercial learner's permit or driver's license the following restriction code: not valid to operate a group A or group B passenger commercial motor vehicle.

A person who fails the air brake portion of the written or driving skills test or who takes the driving skills test in a commercial motor vehicle that is not equipped with air brakes is prohibited from operating a commercial vehicle equipped with air brakes. The bill would

require the SOS to place on the commercial learner's permit or commercial driver license the following restriction code: CDL not valid for vehicle with air brakes.

Beginning on the bill's effective date, the SOS would have to indicate on a commercial learner's permit or commercial driver license the following restriction codes:

- For a commercial learner's permit: a) no passengers in a commercial motor vehicle bus, b) no cargo in a commercial motor vehicle tank vehicle, c) commercial motor vehicle operation with medical variance, or d) commercial motor vehicle operation intrastate only.
- For a commercial driver license: a) not valid to operate commercial motor vehicle equipped with full air brakes, b) not valid to operate commercial motor vehicle equipped with manual transmission, c) not valid to operate a group A commercial vehicle tractor-trailer combination connected by a fifth wheel, d) commercial motor vehicle operation intrastate only, or e) commercial motor vehicle operation with medical variance.

The Code requires a person, before operating a commercial motor vehicle, to obtain the appropriate vehicle endorsements. The bill would include the following:

- For a person who applied for a commercial learner's permit to operate an empty tank motor vehicle, the appropriate vehicle group designation and an N endorsement.
- For a person who applied for a commercial learner's permit to operate a passenger commercial motor vehicle that was not a school bus, the appropriate commercial vehicle group designation and P endorsement.
- For a person who applied for a commercial learner's permit to operate a school bus designed to transport 16 or more passengers, including the driver, who did not currently have a P endorsement, the appropriate vehicle group designation.
- For a person who currently possessed a P endorsement and applied for a commercial learner's permit to operate a school bus designed to transport 16 or more passengers, including the driver, the appropriate vehicle group designation.

With regard to an applicant for a commercial learner's permit to operate a school bus designed to transport more than 16 passengers, the person also would have to pass the knowledge test for the S endorsement and the P endorsement, if he or she did not currently possess that endorsement.

("Tank vehicle" would mean "any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 pounds or more that are either permanently or temporarily attached to the vehicle or the chassis". If a commercial motor vehicle transported one or more tanks manifested either as being empty or containing only residue, those tanks could not be considered in determining whether the vehicle was a tank vehicle.)

#### Commercial Learner's Permit & Permit Restrictions

The bill would allow the Secretary of State to issue a commercial learner's permit that entitled a person to drive a vehicle requiring a vehicle group designation or endorsement under Section 312e if all of the following applied:

- The person submitted a proper application and met the requirements of 49 CFR Part 383 (which pertains to the standards for commercial driver licenses and penalties for noncompliance).
- The person was 18 years of age or older.
- The person held a valid operator's or chauffeur's license that was not a restricted license.
- The person passed the knowledge tests for an original vehicle group designation or endorsement, as required by 49 CFR Part 383.

- If the person applied for a hazardous materials indorsement, he or she was approved for the hazardous materials indorsement by the Federal Transportation Security Administration (TSA).

A person issued a commercial learner's permit by this State or another jurisdiction could operate a vehicle requiring a vehicle group designation or indorsement under Section 312e, if all of the following applied:

- The person had the permit and a valid operator's or chauffeur's license in his or her possession while operating the vehicle.
- The person could not operate a vehicle transporting hazardous materials.
- If the person had a permit to operate a tank vehicle, he or she could operate an empty tank vehicle only and could not operate any tank vehicle that previously contained hazardous materials unless the tank had been purged of all hazardous material residue.
- If the person had a permit to operate a vehicle designed to carry 16 or more passengers or a school bus, he or she could not operate such a vehicle with any passengers other than the following individuals: a) the instructor or licensed adult, b) Federal or State auditors or inspectors, c) test examiners, or d) other trainees.

In addition, the person would have to be accompanied by an instructor certified under the Driver Education Provider and Instructor Act, or an adult with a valid operator's or chauffeur's license, and all of the following would have to apply: a) the instructor or licensed adult had in his or her possession a valid license with a vehicle group designation and any indorsement necessary to operate the vehicle as provided in Section 312e, b) the instructor or licensed adult was at all times physically present in the front seat of the vehicle next to the operator, or in the case of a passenger vehicle, directly behind the operator or in the first row behind the operator, and c) the instructor or licensed adult had the operator under observation and direct supervision.

A commercial learner's permit issued as described above would be valid for 180 days from the date of issuance. A person could apply one time to renew the permit for an additional 180 days without taking the knowledge tests if he or she applied for the renewal before the original permit expired.

These provisions would replace current language under which the SOS, subject to similar conditions, may issue a temporary instruction permit that entitles a person to drive a vehicle requiring a vehicle group designation or vehicle group indorsement under Section 312e, for up to 180 days when accompanied by a licensed adult operator or chauffeur.

#### Verification of Identity & Other Information

The Code prescribes the information that must be included on an application for a license or permit to operate a motor vehicle in this State. The bill specifies that if a person applied for a commercial learner's permit for an original vehicle group designation or indorsement to operate a commercial motor vehicle, the SOS could verify the person's identity, could require proof of Michigan domicile, and could verify the person's proof of United States citizenship or proof of lawful permanent residency as required under 49 CFR Part 383, if that information were not on the person's Michigan driving record.

If a person applied for a renewal of an operator's or chauffeur's license to operate a commercial motor vehicle, or for an upgrade of a vehicle group designation or indorsement, the SOS could verify the person's identity, require proof of Michigan domicile, and verify the person's proof of citizenship or lawful permanent residency, as required by 49 CFR Part 383, if that information were not on the person's Michigan driving record.

## Background Checks & Driving Skills Tests

Before issuing a license, the Secretary of State must examine each applicant for an operator's or chauffeur's license who is not a holder of a valid, unrevoked operator's or chauffeur's license under a law of this State providing for the licensing of drivers. The bill specifies that before the SOS authorized a person to administer vehicle group designation or indorsement knowledge tests, that person would have to complete a State and FBI fingerprint-based criminal history check or the equivalent through the Department of State Police.

The Code prohibits the Secretary of State from issuing an original operator's or chauffeur's license without a vehicle group designation or indorsement without an examination that includes a driving skills test conducted by the SOS or by a designated examining officer. Before the SOS authorizes a person to administer a driver skills test, the person or examiner must successfully complete a State and FBI criminal history check through the Department of State Police. The bill would add, "as required by law and as provided under 49 CFR 384.228". (That Federal regulation requires states to comply with a set of requirements for all state and third-party commercial driver license examiners.)

An original vehicle group designation or passenger or school bus indorsement must not be issued without a driving skills test conducted by an examiner appointed by the Secretary of State. The bill would require this test or an equivalent driving skills test that met the requirements of 49 CFR Part 383 conducted in another jurisdiction.

A driving skills test must include a behind-the-wheel road test. A behind-the-wheel road test for an original vehicle group designation or passenger indorsement must not be conducted unless the applicant has been issued a temporary instruction permit. Under the bill, before an examiner conducted a behind-the-wheel road test for an applicant seeking a vehicle group designation or indorsement required to operate a commercial motor vehicle, the examiner would have to determine whether the applicant had been issued his or her commercial learner's permit at least 15 days before the date of the test and that he or she had the permit in his or her possession.

## Indorsement Test Score Retention & Test Waiver

The Code requires a person to be at least 18 years of age before he or she is issued a vehicle group designation or indorsement, other than for a motorcycle, or be at least 21 and have been approved by the TSA for a hazardous material indorsement before he or she is issued a hazardous materials indorsement on an operator's or chauffeur's license. The person is also required to pass knowledge and driving skills tests that comply with Federal standards. Under the bill, the scores for those tests would have to be kept by the Secretary of State as provided under 49 CFR 383.135. (That Federal regulation requires states to record and retain the knowledge and skills test scores of tests taken by driver applicants. The test scores must either be made part of the driver history record or be linked to the driver history record in a separate file.)

The Code requires a person to pass an examination that includes a driving skills test designed to test the competence of the applicant for an original vehicle group designation and passenger indorsement on an operator's or chauffeur's license to drive that type or general class of vehicle upon the highways of this State. The SOS may waive the driving skills test if the applicant has a valid license with the appropriate designation or indorsement in another state issued in compliance with Federal law. The bill would allow the SOS to waive the test if the person successfully passed a driving skills test administered in another state that met the requirements of this State's, and Federal, law.

### Restricted License & Prohibited Acts

The Secretary of State may restrict a license for a violation of the Code or other law. A restricted license must allow the person to whom it is issued to take any driving skills test required by the SOS and to operate the vehicle under certain circumstances and to and from certain locations. The bill would include to and from an ignition interlock service provider, as required.

The Code prohibits a person from engaging in certain conduct and prescribes penalties for violations. The bill also would prohibit a person from committing fraud related to the testing for or issuance of a commercial driver license or permit, or failing to schedule a retest appointment within 30 days after receiving the Secretary's retest notification.

The Code specifies that an operator's or chauffeur's license issued to a person based upon an untrue application is void from the date of issuance. The bill also would void a license obtained by fraud in the testing for, or issuance of, the license or permit. A person whose commercial license application is voided or cancelled may not reapply for at least 60 days after the application is voided or cancelled. The bill specifies that if the license were obtained by fraud in the testing for, or issuance of, the commercial license or learner's permit, the person could not reapply within 365 days after the permit or license was cancelled. If the person failed to schedule a retesting appointment within 30 days after receiving the Secretary's retest notification, the person could not reapply until he or she met the Department of State's requirements for applying for a new commercial learner's permit or driver license.

The Code requires the SOS immediately to suspend for three years all commercial learner's permits or vehicle group designations on a person's license if the person is convicted of or found responsible for specific offenses in which a commercial motor vehicle was used if the vehicle was carrying hazardous material required to be placarded under Federal regulations. The offenses include a violation of commercial motor vehicle fraudulent testing law. Under the bill, the mandatory three-year suspension would not apply to this offense.

### Student Enrolled in Driver Education Course

The Code provides that a student who is enrolled in a driver education course or a motorcycle safety course approved by the Department may operate a vehicle without holding an operator's license or permit while under the direct supervision of the program instructor. Under the bill, the student could operate a vehicle that did not require a designation under Section 312e.

### Reporting to the Secretary of State

The Code prohibits a court from taking under advisement certain offenses for which a conviction or civil infraction determination must be reported to the SOS. The court may not mask, delay, divert, suspend, or suppress such a conviction or civil infraction determination. Upon a conviction or civil infraction determination, it must be reported to the SOS immediately. These provisions refer to an offense committed by a person while operating a commercial motor vehicle, or by a person licensed to drive a commercial motor vehicle while operating a noncommercial motor vehicle at the time of the offense. Under the bill, these provisions would apply to an offense committed by any person while operating any motor vehicle.

### License Suspension/Probation

A license issued under the Code to a person not previously licensed in Michigan or another state is designated as probationary for three years after the date of issuance. During the first 12 months of probation, the license may be suspended or probationary terms and conditions

may be imposed if the licensee fails to appear before a magistrate or is convicted of or determined responsible for a moving violation. The period of suspension or probationary terms and conditions may not be for more than 12 months and must be determined by the SOS at an examination of the driver by the SOS. The bill would delete the reference to the examination.

For 24 months after a licensee's probationary period, the SOS may require the licensee to be reexamined if his or her driver record has a total of nine or more points imposed in a period of two years and contains any of several violations specified in the Code. If the licensee fails to appear for a scheduled reexamination, his or her license may be suspended immediately and remain suspended until he or she appears. The bill would authorize the SOS to restrict, suspend, or revoke a licensee's license solely on his or her driving record.

Notice of a required reexamination must be given by first-class mail to the licensee's last known address. Under the bill, this notice requirement also would apply in the case of suspension or the imposition of probationary terms or conditions. The notice would have to provide that the suspension or imposition of probationary terms or conditions would be effective 14 days from the date of the notice, unless the licensee requested a reexamination.

### Graduated Driver License

Under the Code, an operator's or chauffeur's license issued to a person who is 17 years old or younger is valid only upon the issuance of a graduated driver license.

A person who is at least 14 years and nine months old may be issued a level 1 graduated licensing status if he or she has satisfied conditions prescribed in the Code. A person issued a level 1 status may operate a motor vehicle only when accompanied either by a licensed parent or legal guardian or, with the parent's or guardian's permission, a licensed driver who is at least 21 years old. A person is restricted to operating with a level 1 status for a minimum of six months. Subsequently, a person may be issued a level 2 graduated licensing status if he or she has satisfied the conditions prescribed in the Code for level 2 status. As a rule, a level 2 operator may not operate between the hours of 10 p.m. and 5 a.m. or with more than one passenger who is younger than 21. A person issued level 2 status must remain at that level for at least six months.

The six-month level 1 provisional period must be extended until the licensee completes 90 consecutive days without a moving violation, an accident in which a moving violation resulted, an accident, suspension, or provisional period violation, or until age 18, whichever occurs first. The six-month level 2 provisional period must be extended until the licensee completes 12 consecutive months without a moving violation, accident, suspension, or restricted period violation, or until age 18, whichever occurs first. The bill would delete these references to an accident (but would retain the references to an accident in which a moving violation resulted).

A person who is at least 17 years old may be issued a level 3 graduated licensing status if he or she has completed 12 consecutive months without a moving violation, an accident in which a moving violation resulted, an accident, suspension, or restricted period violation while the person was issued a level 2 status. The bill would delete the references to an accident (but would retain the reference to an accident in which a moving violation resulted).

### Personalized License Plate

The Code allows the SOS to issue one personalized vehicle registration plate for use on a motor vehicle instead of a standard plate. The bill would eliminate a provision that prohibits the SOS from issuing a letter combination that might carry a connotation offensive to good taste and decency.

## Property of the State

The Code provides that all registration plates, certificates of title, registration certificates, or the license of any dealer or wrecker are the property of the State. The bill would require them to contain information required by the Code and be made in a manner and bear information and be in a configuration as prescribed by the Department of State.

Under the Code, when the Department cancels or suspends a vehicle registration or certificate of title, or the license of a dealer or wrecker as authorized, the owner or person in possession of it immediately must return the evidence of the canceled or suspended registration, title, or license to the Department. It is unlawful for any person to fail or refuse to surrender to the Department upon demand any registration, certificate of title, or dealer license. The bill would include a registration plate in this provision.

MCL 257.7a et al.

Legislative Analyst: Julie Cassidy

## **FISCAL IMPACT**

The bill would have no fiscal impact on the Department of State.

The bill would add new prohibitions against fraudulent license and permit testing, failing to reschedule a license or permit retest appointment after notification, and fraudulently obtaining a commercial driver license. The bill also would add penalties for the additional prohibitions that would involve a restriction on reapplication. There could be an increase in the cost to State government required to track and verify violations associated with the additional prohibitions and added resources required to verify that currently excluded individuals were not reapplying while the exclusionary period on reapplication was in effect for that license or permit.

The bill would have no fiscal impact on local government

Fiscal Analyst: Joe Carrasco  
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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.