



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

## BILL ANALYSIS



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

Senate Bill 42 (as enacted)  
Sponsor: Senator Tom Casperson  
Senate Committee: Transportation  
House Committee: Transportation and Infrastructure

**PUBLIC ACT 11 of 2015**

Date Completed: 4-24-17

**CONTENT**

The bill amended the Michigan Vehicle Code to do the following:

- **Modify the required vehicle group designations for operating certain commercial vehicles.**
- **Allow the Secretary of State (SOS) to issue a commercial learner's permit that entitles a person to drive a vehicle requiring a vehicle group designation or indorsement, provided the person meets certain conditions.**
- **Allow a person issued a commercial learner's permit by this or another jurisdiction to operate a vehicle if certain requirements are met.**
- **Require the SOS to place certain restriction codes on a commercial learner's permit or commercial driver license to prohibit the operation of a commercial vehicle under certain circumstances.**
- **Authorize the 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 prohibited the SOS from issuing a potentially offensive personalized registration plate.**

The bill took effect on July 8, 2015, with the exception of amendments to two sections that took effect on April 9, 2015. (Those sections pertain to the analysis of a driver's breath for the presence of alcohol and/or a controlled substance. The bill replaced the term "preliminary roadside analysis" with "preliminary chemical breath analysis".)

**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.

(Under the bill, similar to the former definition, "commercial motor vehicle" means 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. The term does not include a vehicle used only for transport of personal possessions or family members for nonbusiness purposes.)

The bill requires a person, before operating a combination of vehicles with a gross combination weight rating or gross combination weight of 26,001 pounds or more, whichever is greater, including towed units with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, to obtain a group A vehicle designation on his or her operator's or chauffeur's license. Previously, a person had to obtain a group A vehicle designation on his or her 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.

Previously, a group B vehicle designation was required for a person operating a vehicle having a gross vehicle weight rating of 26,001 pounds or more. The bill applies this requirement to a person who operates a single vehicle having a gross vehicle weight rating or gross vehicle weight, whichever is greater, of 26,001 pounds or more, including while towing a vehicle with a gross vehicle weight rating or gross vehicle weight of not more than 10,000 pounds.

(The bill defines "gross combination weight rating" or "GCWR" as "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" means "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 may not be used in determining whether the vehicle is a commercial motor vehicle when that power unit is not towing another unit.)

#### Restriction Codes & Indorsements

Under the Vehicle Code, 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. The bill requires the Secretary of State to place on the commercial learner's permit or commercial driver license the following restriction code: not valid to operate a group A passenger vehicle.

Under the Vehicle Code, 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. The bill requires SOS to place on the

commercial learner's permit or driver license the following restriction code: not valid to operate a group A or group B passenger commercial motor vehicle.

Under the Vehicle Code, 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 requires 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.

The bill also requires the SOS 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 includes the following:

- For a person who applies 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 applies for a commercial learner's permit to operate a passenger commercial motor vehicle that is not a school bus, the appropriate commercial vehicle group designation and P endorsement.
- For a person who applies for a commercial learner's permit to operate a school bus designed to transport 16 or more passengers, including the driver, who does not have a P endorsement, the appropriate vehicle group designation.
- For a person who possesses a P endorsement and applies 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 bill also requires the person to pass the knowledge test for the S endorsement and the P endorsement, if he or she does not possess that endorsement.

(The bill defines "tank vehicle" as "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 transports one or more tanks manifested either as being empty or containing only residue, those tanks may not be considered in determining whether the vehicle is a tank vehicle.)

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

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

- The person submits a proper application and meets the requirements of 49 CFR Part 383 (which pertains to the standards for commercial driver licenses and penalties for noncompliance).
- The person is 18 years of age or older.
- The person holds a valid operator's or chauffeur's license that is not a restricted license.
- The person passes the knowledge tests for an original vehicle group designation or indorsement, as required by 49 CFR Part 383.
- If the person is applying for a hazardous materials indorsement, he or she has been 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 may operate a vehicle requiring a vehicle group designation or indorsement under Section 312e, subject to all of the following:

- The person must have the permit and a valid operator's or chauffeur's license in his or her possession while operating the vehicle.
- The person may not operate a vehicle transporting hazardous materials.
- If the person has a permit to operate a tank vehicle, he or she may operate an empty tank vehicle only and may not operate any tank vehicle that previously contained hazardous materials unless the tank has been purged of all hazardous material residue.
- If the person has a permit to operate a vehicle designed to carry 16 or more passengers or a school bus, he or she may 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 must 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 apply: a) the instructor or licensed adult must have 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 at all times must be 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 must have the operator under observation and direct supervision.

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

These provisions replaced language under which the SOS, subject to similar conditions, could issue a temporary instruction permit that entitled 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. Under the bill, if a person applies for a commercial learner's permit for an original vehicle group designation or indorsement to operate a commercial motor vehicle, the SOS may verify the person's identity, require proof of Michigan domicile, and 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 is not on the person's Michigan driving record.

If a person applies 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 bill allows the SOS to 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 is not on the person's Michigan driving record.

### Background Checks & Driving Skills Tests

The Code requires the Secretary of State, before issuing a license, to 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 also specifies that, before the SOS authorizes a person to administer vehicle group designation or indorsement knowledge tests, the person must 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 driving skills test, the person or examiner must successfully complete a State and FBI criminal history check through the Department of State Police. The bill added, "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 or, under the bill, an equivalent driving skills test that meets the requirements of 49 CFR Part 383 conducted in another jurisdiction.

The Code requires a driving skills test to include a behind-the-wheel road test. Previously, a behind-the-wheel road test for an original vehicle group designation or passenger indorsement could not be conducted unless the applicant had been issued a temporary instruction permit. The bill deleted that provision. Under the bill, before an examiner conducts 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 must determine whether the applicant was issued his or her commercial learner's permit at least 15 days before the date of the test and that he or she has 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 SOS must keep the scores for those tests 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 also 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 also allows the SOS to waive the test if

the person successfully passes a driving skills test administered in another state that meets the requirements of Federal and Michigan 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 includes 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 prohibits 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 of State'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. Under the bill, a license obtained by fraud in the testing for, or issuance of, the license or permit also is void.

Under the Code, a person whose commercial license application is voided or canceled may not reapply for at least 60 days after the application is voided or canceled. The bill also specifies that if the person obtained the license by fraud in the testing for, or issuance of, the commercial license or learner's permit, he or she may not reapply within 365 days after the permit or license is canceled. If the person fails to schedule a retesting appointment within 30 days after receiving the SOS's retest notification, the person may not reapply until he or she meets 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. Previously, the offenses included a violation of commercial motor vehicle fraudulent testing law. The bill removed that offense from the mandatory three-year suspension requirement.

#### Student Enrolled in Driver Education Course

Previously, a student who enrolled in a driver education course or a motorcycle safety course approved by the Department could operate a vehicle without holding an operator's license or permit while under the direct supervision of the program instructor. The bill retains this provision but refers to a vehicle that does 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 previously referred 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 apply to an offense committed by any person while operating any motor vehicle for which a conviction or civil infraction must be reported to the SOS.

### 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. The bill deleted a requirement that the SOS make the determination at an examination of the driver.

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 authorizes the SOS to restrict, suspend, or revoke a licensee's license solely on his or her driving record.

The Code requires notice of a required reexamination to be given by first-class mail to the licensee's last known address. Under the bill, this notice requirement also applies in the case of suspension or the imposition of probationary terms or conditions. The notice must provide that the suspension or imposition of probationary terms or conditions will be effective 14 days from the date of the notice, unless the licensee requests 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 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. 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, a suspension, or a 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, suspension, or restricted period violation, or until age 18, whichever occurs first.

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, suspension, or restricted period violation while the person was issued a level 2 status.

Previously, Code also required the person not to have been in an accident during the particular time frame.

### 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 eliminated a provision that prohibited 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 requires 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 a person to fail or refuse to surrender to the Department upon demand any registration, certificate of title, dealer license, or, under the bill, registration plate.

MCL 257.7a et al.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill has no fiscal impact on the Department of State.

The bill added 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 added penalties for the additional prohibitions that involve a restriction on reapplication. There may 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 excluded individuals are not reapplying while the exclusionary period on reapplication is in effect for that license or permit.

The bill has no fiscal impact on local government.

Fiscal Analyst: Joe Carrasco  
John Maxwell

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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.