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SFA**BILL ANALYSIS**

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Senate Bill 436 (as passed by the Senate)
Sponsor: Senator Walter H. North
Committee: Transportation and Tourism

Date Completed: 5-30-01

RATIONALE

Under the Michigan Vehicle Code, the Department of State is prohibited from releasing information relating to an accident on a driver's record to a nongovernmental agency unless the driver was subsequently convicted of or determined responsible for a violation of the Code in connection with the accident. As a result, an applicant for employment as a commercial truck driver might have been in numerous accidents, but the driving record that may be supplied to his or her prospective employer will not disclose those accidents unless the driver received a conviction or civil infraction determination. Some people believe that if the trucking industry is to employ individuals who are safe drivers, then motor carriers must have access to records that report on an individual's complete driving history.

CONTENT

The bill would amend the Michigan Vehicle Code to require the Department of State, upon inquiry by an employer, to release information relating to an accident on a prospective employee's record, if the employee were applying for employment that required a commercial driver license.

MCL 257.733

BACKGROUND

Michigan Vehicle Code

Except as otherwise provided, the Code prohibits the disclosure of personal information maintained in a record under the Code, unless the person requesting the information furnishes proof of identity satisfactory to the Secretary of State and

certifies that the personal information requested will be used for a purpose that is permitted under the Code. Permitted purposes include use by an employer, or the employer's agent or insurer, to obtain or verify information relating either to the holder of a commercial driver license that is required under Federal law or to the holder of a chauffeur's license that is required under Chapter 3 (Operator's and Chauffeur's License) of the Code. Highly restricted personal information, however, may be used and disclosed only as expressly permitted by law and in the Code's provisions on an operator's or chauffeur's license, which permit a law enforcement agency to have access to information retained by the Secretary of State.

(The Code defines "personal information" as information that identifies an individual, including the individual's photograph or image, name, address (but not the zip code), driver license number, Social Security number, telephone number, digitized signature, and medical and disability information. "Personal information" does not include information on driving and equipment-related violations or civil infractions, driver or vehicle registration status, vehicular accidents, or other behaviorally related information. "Highly restricted personal information" means an individual's photograph or image, Social Security number, digitized signature, and medical and disability information.)

According to the Department of State, driver records that are produced for courts, law enforcement, or a driver's personal use are full records. Records produced for insurance, employment, or credit inquiries are edited records and do not include minor administrative entries or accidents for which

the driver did not receive a ticket and a corresponding court conviction or civil infraction determination.

Federal Regulations

Federal Motor Carrier Safety Administration regulations prohibit an individual from driving a commercial motor vehicle unless he or she has completed and furnished the motor carrier that employs the individual with an employment application that meets certain requirements. The application must include, among other information, a list of all motor vehicle accidents in which the applicant was involved during the three years before the application was submitted, specifying the date and nature of each accident and any fatalities or personal injuries it caused. In addition, the application must include a list of all violations of motor vehicle laws or ordinances (other than violations involving only parking) of which the applicant was convicted or forfeited bond or collateral during the three years before the application was submitted.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to testimony submitted to the Senate Transportation and Tourism Committee, a 43-year-old Gladwin resident died on May 26, 2000, after sustaining severe burns in an accident in which he crashed his tanker truck, which was loaded with 13,000 gallons of gasoline, into a wall at the I-75/I-375 interchange, causing the truck to ignite. State Police investigators reported that the fatal collision was the sixth accident involving the driver since 1997. The driver's employer noted, however, that a report of the individual's driving record the employer received from the Department of State indicated that the individual had been given in the previous five years only one citation, which was for speeding. The report did not reveal that the driver had been involved in five previous accidents in which he received citations, but was not convicted of or found responsible for a violation.

Because the Vehicle Code restricts the information pertaining to an accident on a

driver's record that may be revealed to a nongovernmental agency, employers cannot obtain the complete driving record of individuals seeking employment as commercial drivers. Consequently, employers may hire as drivers individuals who have been involved in a number of serious traffic accidents. Employers should be able to obtain the complete driving history of a potential employee to determine whether he or she was involved in multiple accidents and had been found at fault. If the motor carrier industry is to screen its job applicants to determine who is a safe driver, then employers should have access to the same unedited information on a driving record that is made available to law enforcement agencies and the judicial system.

Opposing Argument

The bill is not needed because the Department of State already permits an employer to request the driving record of an individual to obtain or verify information relating the holder of a commercial driver license.

Response: To obtain a driving record of a prospective employee, an employer must complete and submit to the Department of State a form that requests driving information about the job applicant and requires the applicant's signature. The employer then receives certain information about the prospective employee's driving record. Under the bill, the Department of State would have to release, upon an employer's inquiry, information on a prospective employee's driving record. Thus, an employer would not have to obtain a prospective employee's signature before requesting the information from the Department and the information provided to the employer would reflect the prospective employee's complete driving record.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: J. Runnels

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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.