

SUBSTITUTE FOR
HOUSE BILL NO. 5535

A bill to authorize the secretary of state to issue enhanced driver licenses and state personal identification cards to United States citizens who reside in Michigan to facilitate travel between the United States and Canada; to establish certain funds and prescribe duties for certain officials; and to prohibit certain conduct and prescribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "enhanced driver license and enhanced official state personal
3 identification card act".

4 Sec. 2. As used in this act:

5 (a) "Enhanced driver license" means an operator's or
6 chauffeur's license issued to an individual under this act for the

House Bill No. 5535 (H-1) as amended February 7, 2008
following purposes:

(i) Use in entering the United States at land and sea ports.

(ii) Use in the same manner as a standard driver license.

(b) "Enhanced official state personal identification card"

means an official state personal identification card issued under this act to an individual who is a United States citizen who resides in this state for the following purposes:

(i) Use in entering the United States at land and sea ports.

(ii) Use in the same manner as a standard official state personal identification card.

(c) "Local government agency" means a county, city, village, or township in this state.

[(d) "Resident" means every person who resides in this state and establishes that he or she is legally present in the United States. This definition applies to the provisions of this act only.

]

(e) "Resident address" means the place that is a person's legal residence as that term is defined in section 11 of the Michigan election law, 1954 PA 116, MCL 168.11.

(f) "Standard driver license" means an operator's license or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(g) "Standard official state personal identification card" means an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

Sec. 3. (1) The secretary of state with the approval of the

1 state administrative board created under 1921 PA 2, MCL 17.1 to
2 17.3, may enter into a memorandum of understanding with any federal
3 agency for the purpose of obtaining approval of an enhanced driver
4 license or enhanced official state personal identification card as
5 proof of identity and citizenship for persons entering the United
6 States at land and sea ports.

7 (2) In conjunction with a federal agency and with the approval
8 of the state court administrative board created under 1921 PA 2,
9 MCL 17.1 to 17.3, the secretary of state may enter into an
10 agreement with the United Mexican States, Canada, or a Canadian
11 province for the purpose of implementing a border-crossing
12 initiative.

13 Sec. 4. (1) The secretary of state may issue an enhanced
14 driver's license or enhanced official state personal identification
15 card to an applicant who provides satisfactory proof of his or her
16 full legal name, United States citizenship, identity, date of
17 birth, social security number, residence address, and a
18 photographic identity document. An applicant may choose to apply
19 for a standard driver license or standard official state personal
20 identification card or an enhanced driver license or enhanced state
21 personal identification card.

22 (2) An enhanced driver license or enhanced official state
23 personal identification card shall include reasonable security
24 measures to protect against unauthorized disclosure of personal
25 information regarding residents of this state that is contained in
26 the enhanced driver license or enhanced official state personal
27 identification card.

House Bill No. 5535 (H-1) as amended February 7, 2008

(3) An enhanced driver license or enhanced official state personal identification card may include facilitative technology [that is limited to retaining and transmitting data that are encrypted and do not include biometric data].

The secretary of state shall ensure that the facilitative technology is secure from unauthorized data access and includes reasonable security measures to protect against unauthorized disclosure of personal information. An applicant shall be required to sign a declaration acknowledging his or her understanding of the facilitative technology before he or she is issued an enhanced driver license or enhanced official state personal identification card.

(4) The requirements of this act are in addition to the requirements otherwise imposed on individuals who apply for a standard driver license or standard official state personal identification card.

(5) The holder of an enhanced driver license issued under this act is subject to every licensing sanction provided under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923. As used in this subsection, "licensing sanction" means the restriction, suspension, revocation, or denial of a driver license; the addition of points to a driving record; the assessment of a driver responsibility fee; the assessment of a civil fine or criminal penalty resulting from a conviction; a civil infraction determination; the imposition of probationary terms and conditions; or any other penalty provided under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

Sec. 5. (1) An applicant who chooses to apply for an enhanced driver license or enhanced official state personal identification

1 card shall provide all of the following items to the secretary of
2 state in the manner prescribed by the secretary of state:

3 (a) A completed application indicating the applicant's full
4 legal name, any legal name change resulting from the applicant's
5 adoption, marriage, divorce, or a court order, date of birth,
6 residence address, height, gender, eye color, social security
7 number, signature, and, if applicable, the applicant's intention to
8 be an organ donor as provided under section 307 of the Michigan
9 vehicle code, 1949 PA 300, MCL 257.307, or section 2 of 1972 PA
10 222, MCL 28.292.

11 (b) Documentation demonstrating the applicant's United States
12 citizenship, full legal name, any legal name change resulting from
13 the applicant's adoption, marriage, divorce, or a court order, date
14 of birth, residence address, and social security number.

15 (c) The applicant's signed certification that the information
16 presented by the applicant is true and correct to the best of the
17 applicant's knowledge.

18 (d) The fee prescribed under section 6.

19 (2) An applicant who applies for an enhanced driver license or
20 enhanced official state personal identification card shall have his
21 or her facial image and signature captured or reproduced by the
22 secretary of state at the time of application. A person's facial
23 image or signature may be made available by this state and used as
24 follows:

25 (a) By a federal, state, or local government agency for any
26 law enforcement purpose authorized by law.

27 (b) By another state to the extent required by federal law.

1 (c) By the secretary of state for any purpose specifically
2 authorized by law.

3 (d) For any other purpose as determined by the secretary of
4 state, if a person provides his or her written authorization for
5 the release of his or her own facial image or signature.

6 (e) As otherwise required by law.

7 (3) Except as otherwise provided under subsection (2), the
8 secretary of state shall not disclose a person's facial image,
9 signature, social security number, or copies or digital images of
10 documents retained under this act.

11 (4) An enhanced driver license or enhanced official state
12 personal identification card issued under this act shall not
13 display a person's social security number on the face of the card.

14 (5) The secretary of state shall examine and verify the
15 genuineness, regularity, and legality of every application and
16 other documentation submitted to the secretary of state for an
17 enhanced driver license or enhanced official state personal
18 identification card, and may in all cases investigate as the
19 secretary of state considers necessary or require additional
20 information, and shall reject any application if not satisfied of
21 the genuineness, regularity, and legality of the application or
22 supporting documentation or the truth of any statement contained in
23 the application or supporting documentation, or for any other
24 reason authorized by law. A decision by the secretary of state to
25 reject an application under this subsection may be appealed under
26 section 631 of the revised judicature act of 1961, 1961 PA 236, MCL
27 600.631.

House Bill No. 5535 (H-1) as amended February 7, 2008

1 (6) The secretary of state shall retain copies or digital
2 images of documents provided by the applicant to the secretary of
3 state under this act.

4 (7) The facial image of an applicant for a license or card
5 under this act who was not issued an enhanced driver license or
6 enhanced official state personal identification card shall be
7 retained for not less than 1 year, unless fraud is suspected, in
8 which case a record containing the applicant's facial image and the
9 reason for denial shall be retained for not less than 10 years.

10 (8) The secretary of state may disclose digital images of
11 documents retained under this act to a federal, state, or local
12 government agency for any law enforcement purpose authorized by
13 law. Except as otherwise provided in this act, copies or digital
14 images of documents retained under this act are exempt from
15 disclosure under the freedom of information act, 1976 PA 442, MCL
16 15.231 to 15.246.

17 [(9) The secretary of state shall not compile or maintain a
18 database under this act that may be shared with a country other than the
19 United States.]

20 Sec. 6. (1) An application for an original enhanced driver
21 license or enhanced official state personal identification card
22 shall be accompanied by payment of a fee of not more than \$50.00.

23 (2) The renewal fee for an enhanced driver license or enhanced
24 official state personal identification card renewed under this act
25 shall be not more than \$50.00. However, if an enhanced driver
26 license or enhanced official state personal identification card is
27 expired at the time of renewal, the fee shall be the same as the
fee provided under subsection (1).

(3) Money from fees collected under subsections (1) and (2)
shall be deposited into the enhanced driver license and enhanced

1 official state personal identification card fund created in section
2 7 after distribution as follows:

3 (a) The secretary of state shall refund to each county or
4 municipality acting as an examining officer or examining bureau
5 \$2.50 for each applicant examined for an original enhanced driver
6 license, if the application is not denied and the money refunded is
7 paid to the county or local treasurer and is appropriated to the
8 county, municipality, or officer or bureau receiving the money for
9 the purpose of carrying out this act.

10 (b) The state treasurer shall deposit the sum of \$4.00 to the
11 traffic law enforcement and safety fund created in section 819a of
12 the Michigan vehicle code, 1949 PA 300, MCL 257.819a, for each
13 person examined for an original enhanced driver license.

14 (c) Except as otherwise provided in subdivision (d), \$4.50 of
15 an original enhanced driver license and \$6.00 of a renewal enhanced
16 driver license shall be appropriated to the transportation economic
17 development fund established in section 2 of 1987 PA 231, MCL
18 247.902, and shall not be appropriated for any other purpose in any
19 act making appropriations of state funds.

20 (d) Notwithstanding subdivision (c), \$2,500,000.00 shall be
21 deposited in the state treasury and credited to the general fund,
22 except not more than \$1,000,000.00 shall be credited to the
23 gasoline inspection and testing fund created under section 8 of the
24 motor fuels quality act, 1984 PA 44, MCL 290.648.

25 (e) The money remaining after distributions are made under
26 subdivisions (a) through (d) shall remain in the enhanced driver
27 license and enhanced official state personal identification card

1 fund created under section 7.

2 (4) A fee paid under this section is nonrefundable, except for
3 administrative error.

4 Sec. 7. (1) The enhanced driver license and enhanced official
5 state personal identification card fund is created within the state
6 treasury.

7 (2) The state treasurer may receive money or other assets from
8 any source for deposit into the fund. The state treasurer shall
9 direct the investment of the fund.

10 (3) Money in the fund at the close of the fiscal year shall
11 remain in the fund and shall not lapse to the general fund.

12 (4) The secretary of state shall be the administrator of the
13 fund for auditing purposes.

14 (5) The secretary of state shall expend money from the fund,
15 upon appropriation, to pay the necessary expenses incurred by the
16 secretary of state in the administration and enforcement of this
17 act.

18 Sec. 8. A person who makes a false certification or statement
19 in applying for an enhanced driver license or enhanced official
20 state personal identification card is guilty of a felony punishable
21 by imprisonment for not more than 5 years or a fine of not more
22 than \$5,000.00, or both.