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Senate Bill 452 (as passed by the Senate)
Sponsor: Senator Roger Victory
Committee: Transportation and Infrastructure

Date Completed: 3-31-22

RATIONALE

The Code allows for the sale of bulk records, such as vehicle registrations and titles, for research and data acquisition purposes. The Secretary of State (SOS) must set a market-based price for the sale of the lists, which usually are sold in quantities of 1,000 records. In 1981, the SOS set the price at 1.6 cents per record, or \$16 per 1,000 records. At this time, the SOS set two separate fee structures, one for updates to bulk record datasets and another for the purchase of new bulk record datasets. According to testimony before the Senate Committee on Transportation and Infrastructure, the SOS reorganized the separate fee structures into a single fee for updated and new bulk record datasets. The proposed single fee was \$70 per one thousand records, but Public Act 87 of 2021 (the budget bill for fiscal year (FY) 2021-22) established the fee at \$35 per 1,000 records. Some people believe that the new fee does not align with the value of the bulk records. Accordingly, it has been suggested that the fee per 1,000 records be decreased and then gradually increased in consecutive years.

CONTENT

The bill would amend the Michigan Vehicle Code to require the SOS to fix certain prices per 1,000 records for the sale of lists or other records maintained in bulk.

Under the Code, the SOS may contract for the sale of lists of driver and motor vehicle records and other records maintained under the Code in bulk. The SOS must require each purchaser of records in bulk to execute a written purchase contract. Until October 1, 2023, the proceeds from each sale must be credited to the Transportation Administration Collection Fund (TACF). The Code requires the SOS to fix a market-based price for the sale of the lists described above or other bulk records, which may include personal information. The bill would eliminate the reference to "market-based price". Instead, the price per 1,000 records would be based on the date the records were obtained and could not exceed the following amount, as applicable:

- After March 31, 2021, and before April 1, 2022: \$17.50.
- After March 31, 2022, and before April 1, 2023: \$19.
- After March 31, 2023: \$20.

The bill specifies that its provisions would apply retroactively for records obtained on and after April 1, 2021.

MCL 257.323

BACKGROUND

Generally, the Federal Driver Privacy Protection Act prohibits a state's department of motor vehicles from disclosing an individual's personal information in connection with a motor vehicle

record.¹ The Act permits the disclosure of that information to authorized recipients for certain uses, such as in connection with motor vehicle recalls or for research activities and statistical reports, if personal information is not published, redisclosed, or used to contact the individual. Authorized recipients may resell or redisclose the information only for permitted uses. The Act prescribes fines for authorized recipients that violate the prescribed use of an individual's personal information obtained in connection with a motor vehicle record.

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

The public benefits from the sale of bulk records to global information solutions (GIS) companies that compile datasets from the records for permitted uses. Among other permitted uses, these companies can use bulk records to improve the accuracy and timing of vehicle recalls for an automaker. While an automaker may know the original consumer who purchased a vehicle, it cannot know the second, third, or fourth buyers. If there is a recall issued for the vehicle, automakers can pay GIS companies for the use of compiled motor vehicle registrations data to locate the owner of a vehicle recently recalled and remedy the problem before the vehicle has any safety issues.

However, the recent increase in the fee for bulk records may inhibit GIS companies from purchasing and compiling these bulk records. According to testimony before the Senate Committee on Transportation and Infrastructure, the national average fee for 1,000 records is \$25. The budget for FY 2021-22 established a maximum fee of \$35 per 1,000 records. This fee is significantly higher than the national average and does not equal the actual value of the data. The total cost of the data under the \$35 fee may be too high in comparison to the money that GIS companies can make in the sale or provision of the data for permitted uses, such as the sale of data to automakers. If these companies decreased the number of bulk records purchased, those decreases could make outreach to vehicle owners about vehicle recalls less accurate and timely, which would affect public safety. A reduction in the price of bulk records, with modest increases each year for the next few years, would maintain the quality of GIS companies' datasets and would allow those companies to continue to provide vehicle owners with important information.

Opposing Argument

The Code requires the SOS to fix a market-based price for the sale of bulk records. According to testimony before the Senate Committee on Transportation and Infrastructure, the SOS undertook a market study by contacting other motor vehicle departments in the surrounding region to arrive at a rate that considers other states' fees while also recuperating costs of the administration of bulk record sales in the State. After those considerations and budget negotiations for FY 2021-22, the rate was set at \$35. A reduction of that rate could decrease the revenue from bulk record sales by \$500,000 in the first year and would hinder the SOS's ability to administer the sale of bulk records in the future. The fee per 1,000 records should remain at \$35 as established under FY 2021-22 budget negotiations because it is an appropriate, market-based fee.

Legislative Analyst: Tyler VanHuysse

FISCAL IMPACT

The bill would have a negative fiscal impact on revenue for the Department of State, estimated at a loss of \$500,000 in the first year. Currently, the revenue from the fees collected for the sale of lists of driver and vehicle records sold in bulk are deposited into the TACF, which is a major funding source for the Department of State.

¹ 18 USC 2721.

Based on Department of State data, driver and vehicle records sold in bulk generate an estimated \$1.0 million for the TACF annually. The recently enacted budget for FY 2021-22 (Public Act 87 of 2021, Article 5, Sec. 703a) includes language limiting the maximum charged for these records to \$35 per 1,000 records requested. That language is estimated to raise an additional \$50,000 in the first year. According to the Department of State, the proposed fee schedule in the bill would result in a loss in revenue for the TACF of an estimated \$500,000 in the first year. The actual loss in revenue would depend on the actual number of records requested.

Fiscal Analyst: Joe Carrasco, Jr.

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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.