

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Cedillo Analyst: Gloria McConnell Bill Number: SB 60

Related Bills: See Legislative History Telephone: 845-4336 Amended Date: 06/23/03

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Federal Identification Numbers May Be Verified By the Department of Motor Vehicle Using Franchise Tax Board

SUMMARY

This bill would require the Department of Motor Vehicles (DMV) to obtain the consent of individuals prior to verifying with the Internal Revenue Service (IRS) or the Franchise Tax Board (FTB) personal information on driver's license applications.

Other provisions of this bill affecting laws administered by DMV, relating to identification numbers of driver license applicants, would not affect FTB's programs or operations, and therefore, are not addressed in this analysis.

SUMMARY OF AMENDMENTS

These June 23, 2003, amendments would only affect the laws administered by DMV relating to identification numbers of driver's license applicants and do not affect FTB.

The June 3, 2003, amendments added the provisions addressed in the "Summary."

This is FTB's first analysis of this bill.

PURPOSE OF THE BILL

According to the author, the purpose of this bill is to have all drivers of motor vehicles licensed.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2004.

POSITION

Pending.

Board Position:

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|-----------------------------|------------------------------|---|
| <input type="checkbox"/> S | <input type="checkbox"/> NA | <input type="checkbox"/> NP |
| <input type="checkbox"/> SA | <input type="checkbox"/> O | <input type="checkbox"/> NAR |
| <input type="checkbox"/> N | <input type="checkbox"/> OUA | <input checked="" type="checkbox"/> PENDING |

Department Director

Date

Gerald H. Goldberg

7/28/03

ANALYSIS

FEDERAL/STATE TAX LAW

All individuals who are required to file federal personal income tax returns must have an identifying number. The social security account number (SSN) is generally used as the identifying number for such individuals. To obtain an SSN, which is issued by the Social Security Administration (SSA), the individual must apply and submit evidence of the individual's identity, age, and United States (U.S.) citizenship or lawful alien status. Individuals who are eligible for an SSN include those who:

- Are U.S. citizens,
- Are born in the U.S. and do not have diplomatic immunity,
- Have entered the U.S. on a work VISA, or
- Are entitled to a federally funded benefit (stipend/fellowship/grant).

An individual taxpayer identification number (ITIN), which is issued by the IRS, is available for certain nonresidents and resident aliens, their spouses, and their dependents who cannot get SSNs. To obtain an ITIN, an application must be completed and filed with the IRS. ITIN applicants must furnish documentation substantiating their foreign/alien status and true identity. Individuals who are eligible for an ITIN include those who:

- Are on a non-work VISA,
- Are born in the U.S. and have diplomatic immunity, and
- Have a federal income tax filing requirement, or have applied for and were denied an SSN and have a federal income tax filing requirement.

Under state tax law, identifying numbers are required on state tax returns, statements, or other documents in the form and manner as the FTB may require. For this purpose, individuals are instructed to use their SSN. However, if the individual does not have an SSN because the individual is a nonresident or resident alien to whom the IRS issued an ITIN for federal tax purposes, the taxpayer is instructed to use the ITIN.

For purposes of administering California's income tax laws, FTB is authorized to receive IRS tax return information files via electronic media. This information includes SSNs or ITINs that taxpayers use when filing their federal income tax returns. FTB is prohibited under federal law from using IRS tax return information for other than tax administration purposes.

THIS BILL

This bill would require DMV to obtain the consent of an individual using an ITIN on a driver's license application to verify with IRS or FTB the applicant's full name, date of birth, and sex.

IMPLEMENTATION CONSIDERATIONS

FTB does not have any information that could be used to "verify" the applicant's information as specified in the bill. FTB only has ITIN numbers given to FTB by the taxpayer on his/her tax return or as received electronically from the IRS, based on the filing of the federal income tax return. FTB would be unable to verify if an ITIN used by an applicant is in fact the ITIN issued to the applicant who is using the ITIN. In addition, FTB does not receive any information that provides the date of birth or sex of taxpayers who have been issued ITINs.

OTHER STATES' INFORMATION

The states reviewed were *Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, population, or personal income tax laws. None of these states use the IRS or state-taxing agency to verify the information on a driver's license.

- *Illinois, Massachusetts, and New York* all require a driver license applicant to furnish their SSN. For *Massachusetts* and *New York*, if the applicant cannot obtain an SSN, the applicant can provide a letter from SSA explaining why an SSN could not be obtained, in which case, higher levels of proof of identity are required. For *Illinois*, the only exception from the SSN requirement is religious convictions, in which case the applicant may use a federal tax number.
- *Michigan* and *Minnesota* make no reference to an SSN requirement for driver license purposes.

FISCAL IMPACT

Departmental Costs

Until the implementation considerations are resolved, the department's costs cannot be determined.

ECONOMIC IMPACT

Revenue Estimate

This bill is not projected to have any identifiable revenue effect on FTB's personal income tax or corporation tax programs.

ARGUMENTS/POLICY CONCERN

Many driver license applicants who do not have SSNs may not have a federal income tax filing requirement, and therefore, may not have ITINs.

LEGISLATIVE STAFF CONTACT

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