

Act No. 100  
Public Acts of 1991  
Approved by the Governor  
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**STATE OF MICHIGAN  
86TH LEGISLATURE  
REGULAR SESSION OF 1991**

Introduced by Reps. Nye, Hoffman, Bartnik, Stopeczynski, Dalman, Ouwinga, DeBeaussaert, Kosteva, Hoekman, Middleton, Fitzgerald, Muxlow, DeLange, Strand, Jaye, Hertel, Clack, Law, Dolan, Robertson, Shugars, Walberg, O'Connor, Hillegonds, Horton and Oxender

## **ENROLLED HOUSE BILL No. 4160**

AN ACT to amend sections 7a, 302, 312e, 312f, 319b, 319d, 323, 323c, 625a, 625b, 625c, 625f, 732, and 904 of Act No. 300 of the Public Acts of 1949, entitled as amended "An act to provide for the registration, titling, sale, transfer, and regulation of vehicles operated upon the public highways of this state or any other place open to the general public and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," section 7a as amended by Act No. 280 of the Public Acts of 1989, sections 312e and 312f as amended by Act No. 181 of the Public Acts of 1990, sections 323, 732, and 904 as amended and sections 319b and 319d as added by Act No. 346 of the Public Acts of 1988, sections 323c, 625a, 625c, and 625f as amended by Act No. 310 of the Public Acts of 1982, and section 625b as amended by Act No. 109 of the Public Acts of 1987, being sections 257.7a, 257.302, 257.312e, 257.312f, 257.319b, 257.319d, 257.323, 257.323c, 257.625a, 257.625b, 257.625c, 257.625f, 257.732, and 257.904 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 7a, 302, 312e, 312f, 319b, 319d, 323, 323c, 625a, 625b, 625c, 625f, 732, and 904 of Act No. 300 of the Public Acts of 1949, section 7a as amended by Act No. 280 of the Public Acts of 1989, sections 312e and 312f as amended by Act No. 181 of the Public Acts of 1990, sections 323, 732, and 904 as amended and sections 319b and 319d as added by Act No. 346 of the Public Acts of 1988, sections 323c, 625a, 625c, and 625f as amended by Act No. 310 of the Public Acts of 1982, and section 625b as amended by Act No. 109 of the Public Acts of 1987, being sections 257.7a, 257.302, 257.312e, 257.312f, 257.319b, 257.319d, 257.323, 257.323c, 257.625a, 257.625b, 257.625c, 257.625f, 257.732, and 257.904 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 7a. "Commercial motor vehicle" means a bus; a school bus; a school transportation vehicle; a motor vehicle, except a motor home, having a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds; a motor vehicle towing a vehicle with a gross vehicle weight rating of more than 10,000 pounds;

or a motor vehicle carrying hazardous material and on which is required to be posted a placard as defined and required under 49 C.F.R. parts 100 to 199. A commercial motor vehicle does not include a vehicle used exclusively to transport personal possessions or family members for nonbusiness purposes.

Sec. 302. The following persons are exempt from obtaining a license under this chapter:

(a) A person serving in the armed forces of the United States if furnished with a driver's permit and operating an official motor vehicle in that service. A person who is a civilian and in the employ of the armed forces of the United States is not exempt from obtaining a license under this chapter.

(b) A person while driving or operating a road roller, a snow motor, road machinery, or a farm tractor or implement of husbandry temporarily drawn, moved, or propelled on a highway.

(c) A nonresident who is not less than 16 years of age and who has been licensed either as an operator or a chauffeur under a law requiring the licensing of operators or chauffeurs in his or her home state and who has in his or her immediate possession either a valid operator's or a valid chauffeur's license issued to him or her in his or her home state.

(d) A nonresident who is over the age of 17 years, whose home state does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than 90 days in any calendar year, if the motor vehicle is registered in the home state or country of the nonresident and the nonresident has in his or her immediate possession a registration card evidencing ownership and registration of the motor vehicle in his or her home state or country, or is able at any time or place required to prove lawful possession or the right to operate the motor vehicle and to establish his or her proper identity.

(e) A person who is a member of the armed forces of the United States on official leave, who on the date of his or her orders granting leave possessed an operator's or chauffeur's license, valid except for the expiration date of the license. This section applies only to the person's first leave of absence following the expiration of his or her license and exempts the person from the provisions of this act for a period not to exceed 30 days.

(f) A person who is a discharged member of the armed forces of the United States, who on the date of his or her discharge possesses an operator's or chauffeur's license, valid except for the expiration date, for a period not to exceed 30 days from date of discharge.

(g) A person who is a member of the armed forces of the United States, stationed in this state, who is a resident of another state and has a valid license issued by his or her state of residence.

(h) A person while operating a commercial motor vehicle in the course of a driving test administered by a certified examiner appointed by the secretary of state and while accompanied by the examiner.

Sec. 312e. (1) Except as provided in subsections (4), (5), (6), (7), and (8), a person, before operating a vehicle towing a vehicle having a gross vehicle weight rating over 10,000 pounds, shall procure a group A vehicle designation on his or her operator's or chauffeur's license. Unless an indorsement is required, a person licensed to operate a group A vehicle may operate a group B or C vehicle without taking another test. A person, before operating a single vehicle having a gross vehicle weight rating of 26,001 pounds or more, or any combination of vehicles having a gross combination weight rating of 26,001 pounds or more if the vehicle being towed does not have a gross vehicle weight rating over 10,000 pounds, shall procure a group B vehicle designation on his or her operator's or chauffeur's license. Unless an indorsement is required, a person licensed to operate a group B vehicle may operate a group C vehicle without taking another test. A person, before operating a school transportation vehicle or a single vehicle having a gross vehicle weight rating under 26,001 pounds or a combination of vehicles having a gross combination weight rating under 26,001 pounds if the vehicle being towed does not have a gross vehicle weight rating over 10,000 pounds and carrying hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199, or designed to transport 16 or more passengers including the driver, shall procure a group C vehicle designation and a hazardous material or passenger vehicle indorsement on his or her operator's or chauffeur's license. An applicant for a vehicle group designation shall take knowledge and driving skills tests that comply with minimum federal standards prescribed in 49 C.F.R. part 383 as required under this act. The license shall be issued, suspended, revoked, canceled, or renewed in accordance with this act. Except as provided in this subsection, all of the following apply:

(a) A person who takes the driving test required under section 312f for a group A vehicle designation in a combination of vehicles having a gross combination weight rating under 26,001 pounds shall not operate a single vehicle having a gross vehicle weight rating of 26,001 pounds or more, or any combination of vehicles having a gross combination weight rating of 26,001 pounds or more if the vehicle being towed has a gross vehicle weight rating of 10,001 pounds or more or the towing vehicle has a gross vehicle weight rating of 26,001 pounds or more.

(b) A person who has a group B vehicle designation that is not restricted under this subsection and who takes the driving test required under section 312f for a group A vehicle designation in a combination of vehicles having a gross combination weight rating under 26,001 pounds shall not operate any combination of vehicles

having a gross combination weight rating of 26,001 pounds or more if the vehicle being towed has a gross vehicle weight rating of 10,001 pounds or more.

(c) A person who takes the driving test required under section 312f for a group B vehicle designation in a combination of vehicles in which the towing vehicle has a gross vehicle weight rating under 26,001 pounds shall not operate a single vehicle having a gross vehicle weight rating of 26,001 pounds or more, or any combination of vehicles if the towing vehicle has a gross vehicle weight rating of 26,001 pounds or more.

(2) A person, before operating a commercial motor vehicle pulling double trailers, shall procure the appropriate vehicle group designation and a T vehicle indorsement under this act. A person, before operating a commercial motor vehicle that is a tank vehicle, shall procure the appropriate vehicle group designation and an N vehicle indorsement under this act. A person, before operating a commercial motor vehicle carrying hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199, shall procure the appropriate vehicle group designation and an H vehicle indorsement under this act. A person, before operating a commercial motor vehicle that is a tank vehicle carrying hazardous material, shall procure the appropriate vehicle group designation and both an N and H vehicle indorsement, which combination vehicle indorsement shall be designated by the code letter X on the person's operator's or chauffeur's license. A person, before operating a bus, school bus, or school transportation vehicle, shall procure the appropriate vehicle group designation and a P vehicle indorsement under this act. A person who fails the air brake portion of the written or driving tests provided under section 312f or who takes the driving test provided under that section in a commercial motor vehicle that is not equipped with air brakes shall not operate a commercial motor vehicle equipped with air brakes. One or more indorsements may be necessary to operate a commercial motor vehicle. An applicant for an indorsement shall take the knowledge and driving skills tests described and required pursuant to 49 C.F.R. part 383. Knowledge tests shall be limited to that which a driver must have for the safe operation of a commercial motor vehicle. The driver is not expected to have knowledge of subjects, such as vehicle mechanics, that go beyond the scope of the information necessary for safe operation of his or her commercial motor vehicle. An applicant for a P vehicle indorsement shall take the driving skills test in a bus or school bus.

(3) The holder of an unexpired operator's or chauffeur's license may be issued a vehicle group designation and indorsement valid for the remainder of the license upon meeting the qualifications of section 312f and payment of the original vehicle group designation fee of \$20.00 and an indorsement fee of \$5.00 per indorsement for a 4-year operator's or chauffeur's license, payment of a vehicle group designation fee of \$20.00 for a 2-year operator's or chauffeur's license under section 314b and an indorsement fee of \$5.00 per indorsement, and a corrected license fee of \$6.00. A person required to procure an F vehicle indorsement pursuant to subsection (5) shall pay an indorsement fee of \$5.00.

(4) Except as otherwise provided in subsections (5) and (6), this section does not apply to a driver or operator of a vehicle under all of the following conditions:

(a) The vehicle is controlled and operated by a farmer or an employee or family member of the farmer.

(b) The vehicle is used to transport agricultural products, farm machinery, farm supplies, or a combination of these items, to or from a farm.

(c) The vehicle is not used in the operation of a common or contract motor carrier.

(d) The vehicle is operated within 150 miles of the farm.

(5) A person, before driving or operating a combination of vehicles having a gross vehicle weight rating of 26,001 pounds or more on the power unit that is used as described in subsection (4)(a) to (d), shall obtain an F vehicle indorsement. The F vehicle indorsement shall be issued upon successful completion of a knowledge test only.

(6) A person, before driving or operating a single vehicle truck having a gross vehicle weight rating of 26,001 pounds or more or a combination of vehicles having a gross vehicle weight rating of 26,001 pounds or more on the power unit that is used as described in subsection (4)(a) to (d) for carrying hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199, shall successfully complete both a knowledge test and a driving skills test. Upon successful completion of the knowledge test and driving skills test, the person shall be issued the appropriate vehicle group designation and any vehicle indorsement necessary under this act.

(7) This section does not apply to a fire fighter operating an authorized emergency vehicle who has met the driver training standards of the Michigan fire fighters' training council.

(8) This section does not apply to a person operating a motor home or a vehicle used exclusively to transport personal possessions or family members for nonbusiness purposes.

(9) A licensee who holds an operator's or chauffeur's license with a class 1 indorsement issued before January 1, 1990, may operate a single vehicle weighing over 24,000 pounds gross vehicle weight without having been issued a group B vehicle designation on his or her license until the license expires as provided in subsection (10). A licensee who holds an operator's or chauffeur's license with a class 2 indorsement issued

before January 1, 1990, may operate a combination of vehicles weighing over 24,000 pounds gross vehicle weight or a vehicle towing a vehicle weighing over 10,000 pounds gross vehicle weight or a single vehicle weighing over 24,000 pounds gross vehicle weight without having been issued a group A or B vehicle designation on his or her license until the license expires as provided in subsection (10). A licensee who holds an operator's or chauffeur's license with a class 3 indorsement issued before January 1, 1990, may operate a bus or school bus without having been issued a vehicle group designation or passenger vehicle indorsement on his or her license until the license expires as provided in subsection (10). A licensee who holds a chauffeur's license issued before January 1, 1990 may operate a school transportation vehicle without having been issued a vehicle group designation or passenger vehicle indorsement on his or her license until the license expires as provided in subsection (10).

(10) The class 1, class 2, or class 3 indorsement on a person's operator's or chauffeur's license that expires after March 31, 1992 shall expire on the person's next birthday after March 31, 1991.

(11) The money received and collected under subsection (3) for a vehicle group designation or indorsement shall be deposited in the state treasury to the credit of the general fund. The secretary of state shall refund out of the fees collected to each county or municipality acting as an examining officer or examining bureau \$3.00 for each applicant examined for a first designation or indorsement to a 4-year operator's or chauffeur's license, \$2.50 for each original designation or indorsement to a 2-year operator's or chauffeur's license, \$1.50 for each renewal designation or indorsement to a 2- or 4-year operator's or chauffeur's license, whose application is not denied, on the condition that the money refunded shall be paid to the county or local treasurer and is appropriated to the county, municipality, or officer or bureau receiving that money for the purpose of carrying out this act.

(12) Notwithstanding any other provision of this section, a person operating a vehicle described in subsections (4) and (5) is subject to the provisions of sections 303 and 319b.

Sec. 312f. (1) Except as otherwise provided in this section, a person shall be not less than 18 years of age before he or she is issued a vehicle group designation or indorsement, other than a motorcycle indorsement, on an operator's or chauffeur's license and, as provided in this section, the person shall pass knowledge and driving skills tests that comply with minimum federal standards prescribed in 49 C.F.R. part 383. A person operating a vehicle to be used for farming purposes only may obtain a group A, a group B, or an F vehicle group designation if he or she is not less than 16 years of age. Each written examination given an applicant for a vehicle group designation or indorsement on an operator's or chauffeur's license shall include subjects designed to cover the type or general class of vehicle to be operated. A person shall pass an examination that includes a driving test designed to test competency 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 with safety to that person and other persons and property, except that until April 1, 1992, the secretary of state may waive the requirement for a driving test for a vehicle group designation and passenger indorsement upon receipt of adequate evidence of experience, testing, and driving record as prescribed under 49 C.F.R. part 383 and section 307 in operating the vehicle group that the applicant intends to drive. The secretary of state shall waive the driving skills test for a person operating a vehicle that is used under the conditions described in section 312e(4)(a) to (d) unless the vehicle has a gross vehicle weight rating of 26,001 pounds or more on the power unit and is to be used to carry hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199. The driving test may be waived if the applicant has a valid license, indorsement, or vehicle group designation to operate that type or group of vehicle in another state, except that the driving test for a vehicle group designation or passenger vehicle indorsement may not be waived unless the applicant has a valid license with the appropriate vehicle group designation or passenger vehicle indorsement in another state issued in compliance with the commercial motor vehicle safety act of 1986, title XII of Public Law 99-570, 100 Stat. 3207-170.

(2) The secretary of state may enter into an agreement with another public or private person or agency to conduct a skills test required under this section, section 312e, or 49 C.F.R. part 383.

(3) The secretary of state shall not issue a vehicle group designation to an applicant for an original vehicle group designation to whom 1 or more of the following apply:

(a) The applicant has had his or her license suspended or revoked for a reason other than as provided in section 321a, 515, or 801c in the 36 months immediately preceding application, except that a vehicle group designation may be issued if the suspension or revocation was due to a temporary medical condition or failure to appear at a reexamination as provided in section 320.

(b) The applicant was convicted of or incurred a bond forfeiture in relation to a 6-point violation as provided in section 320a in the 24 months immediately preceding application, or a violation of section 625(3) or former section 625b, or a local ordinance substantially corresponding to section 625(3) or former section 625b in the 24 months immediately preceding application, if the violation occurred while the applicant was operating a type of vehicle that is operated under a vehicle group designation.

(c) The applicant is listed on the national driver register, the commercial driver license information system, or the driving records of the state in which the applicant was previously licensed as being disqualified from operating a commercial motor vehicle or as having a license suspended, revoked, canceled, or denied.

(d) The applicant is listed on the national driver register, the commercial driver license information system, or the driving records of the state in which the applicant was previously licensed as having had a license suspended, revoked, or canceled in the 36 months immediately preceding application if a suspension or revocation would have been imposed under this act had the applicant been licensed in this state in the original instance. This subdivision does not apply to a suspension or revocation that would have been imposed due to a temporary medical condition or pursuant to section 321a, 515, or 801c.

(e) The applicant is subject to a suspension or revocation under section 319b or would have been subject to a suspension or revocation under section 319b if the applicant had been issued a vehicle group designation.

(f) The applicant has been disqualified from operating a commercial motor vehicle under title XII of Public Law 99-570, 100 Stat. 3207-170 or the applicant's license to operate a commercial motor vehicle has been suspended, revoked, denied, or canceled within 36 months immediately preceding the date of application.

(4) The secretary of state shall only consider bond forfeitures under subsection (3)(b) for violations that occurred on or after January 1, 1990 when determining the applicability of subsection (3).

(5) If an applicant for an original vehicle group designation was previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record from that jurisdiction. If 1 or more of the conditions described in subsection (3) exist in that jurisdiction when the secretary of state receives the copy, the secretary of state shall cancel all vehicle group designations on the person's operator's or chauffeur's license.

(6) Subsection (3)(a), (b), (d), and (f) do not apply to an applicant for an original vehicle group designation who at the time of application has a valid class 1, class 2, or class 3 endorsement under this act or a valid license to operate a commercial motor vehicle issued by any state in compliance with title XII of Public Law 99-570.

Sec. 319b. (1) The secretary of state shall immediately suspend or revoke, as applicable, all vehicle group designations on the operator's or chauffeur's license of a person upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or administrative tribunal has found the person responsible, for a violation described in this section of a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state, or notice that the person has refused to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood while the person was operating a commercial motor vehicle as required by a law or local ordinance of this or another state. The period of suspension or revocation is as follows:

(a) Suspension for 60 days if the licensee is convicted of or found responsible for 2 serious traffic violations while operating a commercial motor vehicle arising from separate incidents within 36 months.

(b) Suspension for 120 days if the licensee is convicted of or found responsible for 3 serious traffic violations while operating a commercial motor vehicle arising from separate incidents within 36 months.

(c) Suspension for 1 year if the licensee is convicted of or found responsible for 1 of the following:

(i) A violation of section 625(1), (3), (4), or (5), section 625m, or former section 625(1) or (2), or former section 625b, or a local ordinance substantially corresponding to section 625(1) or (3), section 625m, or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), section 625m, or former section 625(1) or (2), or former section 625b, while operating a commercial motor vehicle.

(ii) Leaving the scene of an accident involving a commercial motor vehicle operated by the licensee.

(iii) A felony in which a commercial motor vehicle was used.

(iv) A refusal to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood while he or she was operating a commercial motor vehicle as required by a law or local ordinance of this state or another state.

(v) A 6-point violation as provided in section 320a while operating a commercial motor vehicle.

(d) Suspension for 3 years if the licensee is convicted of or found responsible for an offense enumerated in subdivision (c)(i) to (iv) in which a commercial motor vehicle was used if the vehicle was carrying hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199.

(e) Revocation for not less than 10 years and until the person is approved for the issuance of a vehicle group designation if a licensee is convicted of or found responsible for 1 of the following:

(i) Any combination of 2 violations under section 625(1), (3), (4), or (5), section 625m, or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), section 625m, or former section 625(1) or (2), or former section 625b, or a law of another state substantially

corresponding to section 625(1), (3), (4), or (5), section 625m, or former section 625(1) or (2), or former section 625b while driving a commercial motor vehicle.

(ii) Two violations of leaving the scene of an accident involving a commercial motor vehicle operated by the licensee.

(iii) Two violations of a felony in which a commercial motor vehicle was used.

(iv) Two refusals of a request of a police officer to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood while he or she was operating a commercial motor vehicle in this state or another state, which refusals occurred in separate incidents.

(v) Two violations, in any combination, of the offenses enumerated under subparagraph (i), (ii), (iii), or (iv) arising from 2 or more separate incidents.

(vi) One violation of a felony in which a commercial motor vehicle was used and that involved the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute, or dispense a controlled substance.

(2) As used in this section:

(a) "Felony in which a commercial motor vehicle was used" means a felony during the commission of which the person convicted operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

(i) The vehicle was used as an instrument of the felony.

(ii) The vehicle was used to transport a victim of the felony.

(iii) The vehicle was used to flee the scene of the felony.

(iv) The vehicle was necessary for the commission of the felony.

(b) "Serious traffic violation" means a traffic violation that occurs in connection with an accident in which a person died, careless driving, excessive speeding as defined in the federal administrative regulations promulgated to implement the commercial motor vehicle safety act of 1986, title XII of Public Law 99-570, 100 Stat. 3207-170, improper lane use, following too closely, or any other serious traffic violation as defined in 49 C.F.R. 383.5 or as prescribed under this act.

(3) For the purpose of this section only, a bond forfeiture or a determination by a court of original jurisdiction or by an authorized administrative tribunal that a person has violated the law is considered a conviction.

(4) The secretary of state shall suspend or revoke a vehicle group designation under subsection (1) notwithstanding a suspension, restriction, revocation, or denial of an operator's or chauffeur's license or vehicle group designation under another section of this act or a court order issued under another section of this act or a local ordinance substantially corresponding to another section of this act.

(5) The secretary of state, when determining the applicability of conditions listed in this section, shall only consider violations that occurred after January 1, 1990.

Sec. 319d. (1) A person, whether licensed or not, whose blood contains 0.015% or more by weight of alcohol shall not operate a commercial motor vehicle within this state.

(2) A police officer who has reasonable cause to believe that a person was operating a commercial motor vehicle within the state while the person's blood contained 0.015% or more by weight of alcohol, as measured by a preliminary chemical breath analysis or a chemical test provided under section 625a, shall order the person out-of-service immediately for a period of 24 hours, which shall begin upon issuance of the order.

(3) A police officer shall order out-of-service immediately for a period of 24 hours, which shall begin upon issuance of the order, a person who refuses to submit to a preliminary chemical breath analysis requested under section 625a(2).

(4) A person ordered out-of-service under this section, a local ordinance substantially corresponding to this section, or a law or local ordinance of another state substantially corresponding to this section, shall not operate a commercial motor vehicle within this state during the 24-hour out-of-service period.

(5) A police officer who issues an out-of-service order under this section shall provide for the safe and expeditious disposition of a product carried by a commercial motor vehicle that is hazardous or would result in damage to the vehicle, human health, or the environment.

(6) Failure to comply with subsection (1) is not a civil infraction or criminal violation of this act.

(7) A person who violates subsection (4) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

Sec. 323. (1) A person who is aggrieved by a final determination of the secretary of state denying the person an operator's or chauffeur's license, a vehicle group designation, or an indorsement on a license or revoking, suspending, or restricting an operator's or chauffeur's license, vehicle group designation, or an indorsement may petition for a review of the determination in the circuit court in the county where the person was arrested if the denial or suspension was imposed pursuant to section 625f or pursuant to the order of a trial court under section 328 or, in all other cases, in the circuit court in the county of residence of the person. The petition shall be filed within 63 days after the determination is made except that for good cause shown the court may allow the petition to be filed within 182 days after the determination is made. As provided in section 625f, a peace officer who is aggrieved by a determination of a hearing officer in favor of a person who requested a hearing under section 625f may, with the consent of the prosecuting attorney, petition for review of the determination in the circuit court in the county where the arrest was made. The petition shall be filed within 63 days after the determination is made except that for good cause shown the court may allow the petition to be filed within 182 days after the determination is made.

(2) The circuit court shall enter an order setting the cause for hearing for a day certain that is not more than 63 days after the date of the order. The order, together with a copy of the petition that includes the person's full name, current address, birth date, and driver's license number, and all supporting affidavits, shall be served on the secretary of state's office in Lansing not less than 20 days before the date set for the hearing. If the person is seeking a review of the record prepared pursuant to section 322 or section 625f, the service upon the secretary of state shall be made not less than 50 days before the date set for the hearing.

(3) Except as provided in subsections (4) and (6), the court may take testimony and examine into all the facts and circumstances incident to the denial, suspension, restriction, or revocation of the person's license. The court may affirm, modify, or set aside the restriction, suspension, revocation, or denial except that the court shall not order the secretary of state to issue a restricted or unrestricted chauffeur's license that would permit a person to drive a truck or truck tractor, including a trailer, that hauls a hazardous material. The order of the court shall be duly entered and the petitioner shall file a certified copy of the order with the secretary of state's office in Lansing within 7 days after entry of the order.

(4) In reviewing a determination under section 625f, the court shall confine its consideration to 1 or both of the following:

(a) A review of the record prepared pursuant to section 625f(3) to determine whether the hearing officer properly determined the issues enumerated in section 625f.

(b) A determination of whether to order the issuance of a restricted license as provided in section 323c.

(5) This section does not apply to a denial, revocation, suspension, or restriction imposed pursuant to a court order issued as part of the sentence for a conviction under section 625, section 625m, former section 625(1) or (2), or former section 625b, or a local ordinance substantially corresponding to section 625(1), (2), or (3), section 625m, former section 625(1) or (2), or former section 625b.

(6) In reviewing a determination resulting in a denial or revocation under section 303(1)(d) or (e) or 303(2)(c), (d), or (e), the court shall confine its consideration to a review of the record prepared pursuant to section 322 or the driving record created under section 204a. The court shall set aside the determination of the secretary of state only if substantial rights of the petitioner have been prejudiced because the determination is any of the following:

(a) In violation of the Constitution of the United States, of the state constitution of 1963, or of a statute.

(b) In excess of the statutory authority or jurisdiction of the secretary of state.

(c) Made upon unlawful procedure resulting in material prejudice to the petitioner.

(d) Not supported by competent, material, and substantial evidence on the whole record.

(e) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.

(f) Affected by other substantial and material error of law.

(7) This section does not apply to a denial, revocation, suspension, or restriction imposed pursuant to the financial responsibility act contained in chapter V.

(8) This section does not apply to a suspension, revocation, or denial of a class 1, 2, or 3 indorsement or a vehicle group designation imposed pursuant to section 312f, 319a, or 319b.

Sec. 323c. (1) A person denied a license to operate a motor vehicle or whose license for that purpose has been suspended by the secretary of state under section 625f has a right to a review of the matter in circuit court as provided in sections 323 and 323a. Except as provided in this section, the court may order the secretary of state to issue to the person a restricted license permitting the person to drive only to and from the person's residence and work location; in the course of the person's employment or occupation; to and from an alcohol or drug education program or treatment program as ordered by a court; to and from the person's residence and the

court probation department, or a court-ordered community service program, or both; to and from the person's residence and an educational institution at which the person is enrolled as a student; or pursuant to a combination of these restrictions. If the denial, suspension, or revocation of a person's license or vehicle group designation under section 625f occurred in connection with the operation of a commercial motor vehicle, the court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle. The court shall not order the secretary of state to issue a restricted chauffeur's license that would permit a person to operate a truck or truck tractor, including a trailer, that hauls hazardous material. The court shall not order the secretary of state to issue a restricted license unless the person states under oath and the court finds that the person is unable to take public transportation to and from his or her work location, place of alcohol or drug education or treatment, or educational institution, and does not have a family member or other person able to provide transportation. The court order and license shall indicate the person's work location and the approved route or routes and permitted times of travel. For purposes of this section, "work location" includes, as applicable, either or both of the following:

(a) The specific place or places of employment.

(b) The territory or territories regularly visited by the person in pursuance of the person's occupation.

(2) If the person's license has been suspended pursuant to section 625f within the immediately preceding 7-year period, a restricted license shall not be issued.

(3) Notwithstanding any other provision of this section, the court shall not issue a restricted license to a person who has accumulated over 24 points, as provided in section 320a, within the 2-year period preceding the date of the suspension of his or her license.

Sec. 625a. (1) A peace officer, without a warrant, may arrest a person when the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator of a vehicle involved in the accident in this state while in violation of section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3).

(2) A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, in this state, and that the person by the consumption of intoxicating liquor may have affected his or her ability to operate a vehicle, or reasonable cause to believe that a person was operating a commercial motor vehicle within the state while the person's blood contained any measurable amount of alcohol by weight or while the person had any detectable presence of intoxicating liquor, may require the person to submit to a preliminary chemical breath analysis. The following provisions shall apply with respect to a preliminary chemical breath analysis:

(a) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

(b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 625c(1) or in an administrative hearing solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(c) A person who submits to a preliminary chemical breath analysis shall remain subject to the requirements of sections 625c, 625d, 625e, and 625f for the purposes of chemical tests described in those sections.

(d) Except as provided in subsection (5), a person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.

(3) The results of a preliminary chemical breath analysis conducted pursuant to this section shall be used by a police officer to determine whether a person shall be ordered out-of-service under section 319d. A police officer shall order out-of-service as required under section 319d a person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis as provided in this section. This section does not limit use of other competent evidence by the police officer to determine whether a person shall be ordered out-of-service under section 319d.

(4) A person who was operating a commercial motor vehicle and who is requested to submit to a preliminary chemical breath analysis under this section shall be advised that refusal of the request of a police officer to take a test described in this section is a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both, and shall result in the issuance of a 24-hour out-of-service order.

(5) A person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a police officer is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

(6) The following provisions apply with respect to chemical tests and analysis of a person's blood, urine, or breath, other than preliminary chemical breath analysis:



(a) The amount of alcohol or presence of a controlled substance or both in a driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.

(b) A person arrested for a crime described in section 625c(1) shall be advised of all of the following:

(i) That if he or she takes a chemical test of his or her blood, urine, or breath administered at the request of a peace officer, he or she has the right to demand that a person of his or her own choosing administer 1 of the chemical tests; that the results of the test are admissible in a judicial proceeding as provided under this act and shall be considered with other competent evidence in determining the innocence or guilt of the defendant; and that he or she is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his or her own request.

(ii) That if he or she refuses the request of a peace officer to take a test described in subparagraph (i), a test shall not be given without a court order, but the peace officer may seek to obtain such a court order.

(iii) That his or her refusal of the request of a peace officer to take a test described in subparagraph (i) shall result in the suspension of his or her operator's or chauffeur's license and vehicle group designation or operating privilege, and in the addition of 6 points to his or her driver record.

(c) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures shall not attach to a qualified person who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this act unless the withdrawal or analysis is performed in a negligent manner.

(d) A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 625c(1). A person who takes a chemical test administered at the request of a peace officer, as provided in this section, shall be given a reasonable opportunity to have a person of his or her own choosing administer 1 of the chemical tests described in this subsection within a reasonable time after his or her detention, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged shall be responsible for obtaining a chemical analysis of the test sample.

(e) If, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for the purpose of medical treatment, the results of a chemical analysis of that sample shall be admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subdivision. A medical facility or person disclosing information in compliance with this subsection shall not be civilly or criminally liable for making the disclosure.

(f) If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident, and that agency shall forward the results to the department of state police.

(g) The department of state police shall promulgate uniform rules for the administration of chemical tests for the purposes of this section.

(7) The provisions of subsection (6) relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether or not a person was impaired by, or under the influence of, intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or whether the person had a blood alcohol content of 0.10% or more by weight of alcohol.

(8) If a chemical test described in subsection (6) is administered, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the results at least 2 days before the day of the trial. The results of the test shall be offered as evidence by the prosecution in that trial. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution.

(9) Except in a prosecution relating solely to a violation of section 625(1)(b), the amount of alcohol in the driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath shall give rise to the following presumptions:

(a) If there was at the time 0.07% or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor, and that the defendant was not under the influence of intoxicating liquor.

(b) If there was at the time in excess of 0.07% but less than 0.10% by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 625(3) due to the consumption of intoxicating liquor.

(c) If there was at the time 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(10) A person's refusal to submit to a chemical test as provided in subsection (6) shall be admissible in a criminal prosecution for a crime described in section 625c(1) only for the purpose of showing that a test was offered to the defendant, but not as evidence in determining innocence or guilt of the defendant. The jury shall be instructed accordingly.

Sec. 625b. (1) A person arrested for a misdemeanor violation of section 625(1) or (3), or section 625m, or a local ordinance substantially corresponding to section 625(1) or (3), or section 625m, shall be arraigned on the citation, complaint, or warrant not more than 14 days after the date of arrest or, if an arrest warrant is reissued, not more than 14 days after the reissued arrest warrant is served.

(2) The court shall schedule a pretrial conference between the prosecuting attorney, the defendant, and the defendant's attorney in each case in which the defendant is charged with a misdemeanor violation of section 625(1) or (3), or section 625m, or a local ordinance substantially corresponding to section 625(1) or (3), or section 625m. The pretrial conference shall be held not more than 35 days after the date of the person's arrest for the violation or, if an arrest warrant is reissued, not more than 35 days after the date the reissued arrest warrant is served, unless the court has only 1 judge who sits in more than 1 location in that district, in which case the pretrial conference shall be held not more than 42 days after the date of the person's arrest for the violation or, if an arrest warrant is reissued, not more than 42 days after the date the reissued arrest warrant is served. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days. The court shall, except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, finally adjudicate, by a plea of guilty or nolo contendere, or the entry of a verdict, or by other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 625(1) or (3), or section 625m, or a local ordinance substantially corresponding to section 625(1) or (3), or section 625m, within 77 days after the person is arrested for the violation or, if an arrest warrant is reissued, not more than 77 days after the date the reissued arrest warrant is served.

(3) Before accepting a plea of guilty or nolo contendere under section 625, or a local ordinance substantially corresponding to section 625(1), (2), or (3), the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation, and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state pursuant to section 204a.

(4) Before imposing sentence, other than court-ordered license sanctions, for a violation of section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

(5) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the Michigan driving record of the person, except those convictions which, upon motion by the defendant, are determined by the court to be constitutionally invalid, and shall impose the following licensing sanctions:

(a) For a conviction under section 625(4) or (5), the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

(b) For a conviction under section 625(1) or a local ordinance substantially corresponding to section 625(1):

(i) If the court finds that the person has no prior convictions within 7 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially

corresponding to section 625(1) or (3), or former section 625(1) or (2) or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension, except that a restricted license shall not be issued during the first 30 days of the period of suspension.

(ii) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 625(3) or former section 625b, a local ordinance substantially corresponding to section 625(3) or former section 625b, or a law of another state substantially corresponding to section 625(3) or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the period of suspension, except that a restricted license shall not be issued during the first 60 days of the period of suspension.

(iii) If the court finds that the person has 1 or more prior convictions within 7 years for a violation of section 625(1), (4), or (5), or former section 625(1) or (2), a local ordinance substantially corresponding to section 625(1) or former section 625(1) or (2), or a law of another state substantially corresponding to section 625(1), (4), or (5), or former section 625(1) or (2), or that the person has 2 or more prior convictions within 10 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

(c) For a conviction under section 625(3) or a local ordinance substantially corresponding to section 625(3):

(i) If the court finds that the convicted person has no prior conviction within 7 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 90 days or more than 1 year. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension.

(ii) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension period, except that a restricted license shall not be issued during the first 60 days of the period of suspension.

(iii) If the court finds that the person has 2 or more prior convictions within 10 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

(6) A restricted license issued pursuant to an order under subsection (5) shall permit the person to whom it is issued to do 1 or more of the following:

(a) Drive to and from the person's residence and work location.

(b) Drive in the course of the person's employment or occupation.

(c) Drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the court.

(d) Drive to and from the person's residence and the court probation department, or a court-ordered community service program, or both.

(e) Drive to and from the person's residence and an educational institution at which the person is enrolled as a student.

(7) The court may order that the restricted license issued pursuant to subsection (5) include the requirement that the person shall not operate a motor vehicle unless the vehicle is equipped with a functioning ignition interlock device. The device shall be set to render the motor vehicle inoperable if the device detects a blood alcohol content of 0.02% or more by weight of alcohol in the person who offers a breath sample. The court may

order installation of an ignition interlock device on any motor vehicle that the person owns or operates, the costs of which shall be borne by the person whose license is restricted.

(8) The court shall not order the secretary of state under subsection (5) to issue a restricted license that would permit a person to operate a truck or truck tractor, including a trailer, that hauls hazardous materials.

(9) The court shall not order the secretary of state to issue a restricted license unless the person states under oath, and the court finds pursuant to testimony taken in open court or pursuant to statements contained in a sworn affidavit on a form prescribed by the state court administrator, that the person is unable to take public transportation to and from his or her work location, place of alcohol or drug education treatment, court-ordered community service program, or educational institution, and does not have any family members or other individuals able to provide transportation.

(10) The court order issued under subsection (5) and the restricted license shall indicate the permitted destination of the person, the approved route or routes if specified by the court, and permitted times of travel.

(11) As used in this section, "work location" means, as applicable, either the specific place or places of employment, or the territory or territories regularly visited by the person in pursuance of the person's occupation, or both.

(12) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 625(1), (3), (4), or (5), or a local ordinance substantially corresponding to section 625(1) or (3), the person shall surrender to the court his or her operator's or chauffeur's license or permit. The court shall immediately destroy the license or permit and forward an abstract of conviction with court-ordered license sanctions to the secretary of state. Upon receipt of, and pursuant to, the abstract of conviction with court-ordered license sanctions, the secretary of state shall suspend or revoke the person's license and, if ordered by the court and the person is otherwise eligible for a license, issue to the person a restricted license stating the limited driving privileges indicated on the abstract. If the judgment and sentence is appealed to circuit court, the court may, ex parte, order the secretary of state to stay the suspension, revocation, or restricted license issued pursuant to this section pending the outcome of the appeal.

(13) In addition to any other suspension or revocation ordered under this section and as part of the sentence imposed upon a person who violates section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3) while operating a commercial motor vehicle, the court shall order the secretary of state to suspend the vehicle group designations on the person's operator's or chauffeur's license in accordance with section 319b(1)(c), except that if the vehicle was transporting hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199, the court shall order the secretary of state to suspend the vehicle group designations on the person's operator's or chauffeur's license in accordance with section 319b(1)(d). The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle.

(14) In addition to any other suspension or revocation ordered under this section and as part of the sentence imposed upon a person who is convicted of a violation of section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3) while operating a commercial motor vehicle within 10 years of a prior conviction, the court shall order the secretary of state to revoke the vehicle group designations on the person's operator's or chauffeur's license in accordance with section 319b(1)(e). The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle. As used in this section, "prior conviction" means a conviction under subsection 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3) or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b involving the operation of a commercial motor vehicle, or a conviction under section 625m, a local ordinance substantially corresponding to section 625m, or a law of another state substantially corresponding to section 625m.

Sec. 625c. (1) A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood, in all of the following circumstances:

(a) If the person is arrested for a violation of section 625(1), (3), (4), or (5), section 625a(5) or section 625m, or a local ordinance substantially corresponding to section 625(1) or (3), section 625a(5), or section 625m.

(b) If the person is arrested for felonious driving, negligent homicide, manslaughter, or murder resulting from the operation of a motor vehicle, and the peace officer had reasonable grounds to believe that the person was operating the vehicle while impaired by or under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance, or while having a blood alcohol content of 0.10% or more by weight of alcohol.

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician is not considered to have given consent to the withdrawal of blood.

(3) The tests shall be administered as provided in section 625a(6).

Sec. 625f. (1) If a person who refuses to submit to a chemical test pursuant to section 625d does not request a hearing within 14 days of the date of notice pursuant to section 625e, the secretary of state shall impose the following license sanctions:

(a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny the person's operator's or chauffeur's license or permit to drive, or nonresident operating privilege, for a period of 6 months, or for a second or subsequent refusal within a period of 7 years, for 1 year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall deny to the person the issuance of a license or permit for a period of 6 months, or for a second or subsequent refusal within a period of 7 years, for 1 year.

(b) If the person was operating a commercial motor vehicle, for the first refusal, suspend all vehicle group designations on the person's operator's or chauffeur's license or permit, or nonresident privilege to operate a commercial motor vehicle, or if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, deny the issuance to the person of an operator's or chauffeur's license with vehicle group designations, for a period of 1 year.

(c) If the person was operating a commercial motor vehicle, for a second or subsequent refusal that occurred in a separate incident from, and within 10 years of, a prior refusal, revoke all vehicle group designations on the person's operator's or chauffeur's license or permit, or nonresident privilege to operate a commercial motor vehicle, or if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, deny the issuance to the person of an operator's or chauffeur's license with vehicle group designations, for a period of not less than 10 years and until the person is approved for the issuance of a vehicle group designation.

(d) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 625c other than a violation of section 625a(5) or 625m, impose the license sanction described in subdivision (a) and the license sanction described in subdivision (b) or (c), as applicable.

(2) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322. A person shall not order a hearing officer to make a particular finding on any issue enumerated under subdivisions (a) to (d). Not less than 5 days' notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under section 625d, and if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a reasonable request for an adjournment. Not more than 1 adjournment shall be granted to a party and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest and shall, except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, be finally adjudicated within 77 days after the date of arrest. The hearing shall cover only the following issues:

(a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 625c(1).

(b) Whether the person was placed under arrest for a crime described in section 625c(1).

(c) If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.

(d) Whether the person was advised of the rights under section 625a(6).

(3) The hearing officer shall make a record of proceedings held pursuant to subsection (2). The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.286 of the Michigan Compiled Laws. Upon notification of the filing of a petition for judicial review pursuant to section 323, the hearing officer shall transmit to the court in which the petition was filed, not less than 10 days before the matter is set for review, the original or a certified copy of the official record of the proceedings. Proceedings at which evidence was presented need not be transcribed and transmitted if the sole reason for review is to determine whether or not the court will order the issuance of a restricted license. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(4) After a hearing, if the person who requested the hearing does not prevail, the secretary of state shall impose the following license sanctions:

(a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny issuance of a license or driving permit or a nonresident operating privilege of the person for a period of 6 months, or for a second or subsequent refusal within 7 years, for 1 year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall deny to the person the issuance of a license or permit for a period of 6 months, or for a second or subsequent refusal within 7 years, for 1 year. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323. If after the hearing the person who requested the hearing prevails, the peace officer who filed the report under section 625d may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in section 323.

(b) If the person was operating a commercial motor vehicle, impose the sanction prescribed under subsection (1)(b) or (1)(c), as applicable. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323.

(c) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 625c, other than a violation of section 625a(5) or 625m, impose the license sanctions described in both subdivisions (a) and (b).

(5) When it has been finally determined that a nonresident's privilege to operate a vehicle in the state has been suspended or denied, the department shall give notice in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of each state in which he or she has a license to operate a motor vehicle.

Sec. 732. (1) Each municipal judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with or cited for a violation of this act or of a law corresponding to this act regulating the operation of vehicles on highways.

(2) Within 14 days after the conviction or forfeiture of bail of a person, or entry of a civil infraction determination, default judgment, or probate court order of disposition for a child found to be within the provisions of chapter XIIIA of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.28 of the Michigan Compiled Laws, upon a charge of, or citation for, violating this act or a local ordinance corresponding to this act regulating the operation of vehicles on highways, and, for each case charging a violation of section 625(1), (3), (4), or (5), or a local ordinance substantially corresponding to section 625(1) or (3) in which the charge is dismissed or the defendant is acquitted, except as provided in subsection (15), the municipal judge or clerk of the court of record shall prepare and immediately forward to the secretary of state an abstract of the record of the court for the case. The abstract shall be certified by signature, stamp, or facsimile signature by the person required to prepare the abstract to be true and correct. If a city or village department, bureau, or person is authorized to accept a payment of money as a settlement for a violation of a local ordinance corresponding to this act, the city or village department, bureau, or person shall send a full report of each case in which a person pays any amount of money to the city or village department, bureau, or person to the secretary of state upon a form prescribed by the secretary of state.

(3) The abstract or report required under this section shall be made upon a form furnished by the secretary of state and shall include all of the following:

(a) The name, address, and date of birth of the person charged or cited.

(b) The number of the person's operator's or chauffeur's license, if any.

(c) The date and nature of the violation.

(d) The type of vehicle driven at the time of the violation and, if the vehicle is a commercial motor vehicle, that vehicle's group designation and indorsement classification.

(e) The date of the conviction, finding, forfeiture, judgment, or determination.

(f) Whether bail was forfeited.

(g) Any license revocation, restriction, suspension, or denial ordered by the court pursuant to this act.

(h) Other information considered necessary to the secretary of state.

(4) The clerk of the court also shall forward an abstract of the record of the court to the secretary of state upon the conviction of a person or entry of a probate court order of disposition for a child found to be within the provisions of chapter XIIIA of Act No. 288 of the Public Acts of 1939 involving any of the following:

(a) A violation of section 324, 413, 414, or 479a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.324, 750.413, 750.414, and 750.479a of the Michigan Compiled Laws.

(b) A violation of section 1 of Act No. 214 of the Public Acts of 1931, being section 752.191 of the Michigan Compiled Laws.

(c) An attempt to commit any of the offenses described in subdivision (a) or (b).

(5) As used in subsections (6) to (8), "felony in which a motor vehicle was used" means a felony during the commission of which the person operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

- (a) The vehicle was used as an instrument of the felony.
- (b) The vehicle was used to transport a victim of the felony.
- (c) The vehicle was used to flee the scene of the felony.
- (d) The vehicle was necessary for the commission of the felony.

(6) If a person is charged with a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319(1)(a) to (e), the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

"You are charged with the commission of a felony in which a motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.319 of the Michigan Compiled Laws, your driver's license shall be suspended by the secretary of state."

(7) If a child is accused of an act the nature of which constitutes a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319(1)(a) to (e), the prosecuting attorney or juvenile court shall include on the petition filed in the probate court:

"You are accused of an act the nature of which constitutes a felony in which a motor vehicle was used. If the accusation is found to be true and the judge or referee finds that the nature of the act constitutes a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.319 of the Michigan Compiled Laws, your driver's license shall be suspended by the secretary of state."

(8) If the judge or juvenile court referee determines as part of the sentence or disposition that the felony for which the defendant was convicted or adjudicated and with respect to which notice was given pursuant to subsection (6) or (7) is a felony in which a motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction or adjudication to the secretary of state.

(9) As used in subsections (10) and (11), "Felony in which a commercial motor vehicle was used" means a felony during the commission of which the person operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

- (a) The vehicle was used as an instrument of the felony.
- (b) The vehicle was used to transport a victim of the felony.
- (c) The vehicle was used to flee the scene of the felony.
- (d) The vehicle was necessary for the commission of the felony.

(10) If a person is charged with a felony in which a commercial motor vehicle was used and for which a vehicle group designation on a license is subject to suspension or revocation under section 319b(1)(c)(iii), 319b(1)(d), or 319b(1)(e)(iii) or (vi), the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

"You are charged with the commission of a felony in which a commercial motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a commercial motor vehicle was used, as defined in section 319b of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.319b of the Michigan Compiled Laws, all vehicle group designations on your driver's license shall be suspended or revoked by the secretary of state."

(11) If the judge determines as part of the sentence that the felony for which the defendant was convicted and with respect to which notice was given pursuant to subsection (10) is a felony in which a commercial motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.

(12) Every person required to forward abstracts to the secretary of state under this section shall certify for the period from January 1 through June 30 and for the period from July 1 through December 31 that all abstracts required to be forwarded during the period have been forwarded. The certification shall be filed with the secretary of state not later than 28 days after the end of the period covered by the certification. The certification shall be made upon a form furnished by the secretary of state and shall include all of the following:

- (a) The name and title of the person required to forward abstracts.
- (b) The court for which the certification is filed.
- (c) The time period covered by the certification.
- (d) The following statement:

"I certify that all abstracts required by section 732 of the Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period \_\_\_\_\_ through \_\_\_\_\_ have been forwarded to the secretary of state."

(e) Other information the secretary of state considers necessary.

(f) The signature of the person required to forward abstracts.

(13) The failure, refusal, or neglect of a person to comply with this section shall constitute misconduct in office and shall be grounds for removal from office.

(14) Except as provided in subsection (15), the secretary of state shall keep all abstracts received under this section at the secretary of state's main office and the abstracts shall be open for public inspection during the office's usual business hours. Each abstract shall be entered upon the master driving record of the person to whom it pertains.

(15) The court shall not submit, and the secretary of state shall discard and not enter on the master driving record, an abstract for a conviction, civil infraction determination, or probate court order of disposition for any of the following offenses:

(a) The parking or standing of a vehicle.

(b) A nonmoving violation that is not the basis for the secretary of state's suspension, revocation, or denial of an operator's or chauffeur's license.

(c) A violation of chapter II that is not the basis for the secretary of state's suspension, revocation, or denial of an operator's or chauffeur's license.

(d) A pedestrian, passenger, or bicycle violation.

(e) A violation of section 710e.

(16) The secretary of state shall discard and not enter on the master driving record an abstract for a bond forfeiture that occurred outside this state. However, the secretary of state shall retain and enter on the master driving record an abstract of an out-of-state bond forfeiture for an offense that occurred after January 1, 1990 in connection with the operation of a commercial motor vehicle.

(17) The secretary of state shall inform the courts of this state of the nonmoving violations and violations of chapter II that are used by the secretary of state as the basis for the suspension, restriction, revocation, or denial of an operator's or chauffeur's license.

(18) If a conviction, civil infraction determination, or probate court order of disposition is reversed upon appeal, the person whose conviction, determination, or order of disposition has been reversed may serve on the secretary of state a certified copy of the order of reversal, and the secretary of state shall enter the order in the proper book or index in connection with the record of the conviction, civil infraction determination, or probate court order of disposition.

(19) The secretary of state may permit a city or village department, bureau, person, or court to modify the requirement as to the time and manner of reporting a conviction, civil infraction determination, settlement, or probate court order of disposition to the secretary of state if the modification will increase the economy and efficiency of collecting and utilizing the records. If the permitted abstract of court record reporting a conviction, civil infraction determination, settlement, or probate court order of disposition originates as a part of the written notice to appear, authorized in section 728(1) or 742(1), the form of the written notice and report shall be as prescribed by the secretary of state.

Sec. 904. (1) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation, whose application for license has been denied, or who has never applied for a license, shall not operate a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles within this state. A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this act. A person who violates this subsection is guilty of a misdemeanor, punishable as follows:

(a) If the person's operator's or chauffeur's license has been suspended under section 321a because that person has failed to answer a citation or has failed to comply with an order or judgment issued pursuant to section 907, by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

(b) For a violation, other than a violation punishable under subdivision (a), by imprisonment for not more than 90 days, or by a fine of not more than \$500.00, or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be confiscated.



(c) For a second or subsequent violation punishable under subdivision (b), by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both. Unless the vehicle was stolen, the registration plates of the vehicle shall be confiscated.

(2) The secretary of state, upon receiving a record of the conviction or probate court disposition of a person upon a charge of unlawful operation of a motor vehicle while the license of the person is suspended or revoked or of the conviction, civil infraction determination, or probate court disposition of a person for a moving violation of the vehicle laws of this state or a political subdivision of this state while the license of the person is suspended or revoked immediately shall extend the period of the first suspension or revocation for an additional like period. This subsection shall apply only if the violation occurs during a suspension of definite length, or if the violation occurs before the person is approved for a license following a revocation.

(3) The secretary of state, upon receiving a record of the conviction, bond forfeiture, or a civil infraction determination of a person upon a charge of unlawful operation of a motor vehicle requiring a class 1, class 2, or class 3 indorsement or vehicle group designation while the indorsement or designation is suspended pursuant to section 319a or 319b, or revoked, immediately shall extend the period of suspension or revocation for an additional like period. This subsection shall apply only if the violation occurs during a suspension of definite length, or if the violation occurs before the person is approved for a license following a revocation, or if the person operates a commercial vehicle while disqualified under the commercial motor vehicle safety act of 1986, title XII of Public Law 99-570, 100 Stat. 3207-170.

(4) If the secretary of state receives records of more than 1 conviction, civil infraction determination, or probate court disposition resulting from the same incident, all of the convictions, civil infraction determinations, or probate court dispositions shall be treated as a single violation for purposes of extending the period of suspension or revocation under subsection (2) or (3).

(5) Before a person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the driving record of the person from the secretary of state and shall furnish the record to the court. The driving record of the person may be obtained from the secretary of state's computer information network.

(6) This section does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property, if the life or property is endangered and the summoning of prompt aid is essential.

(7) A person whose vehicle group designation is suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation, or whose application for a vehicle group designation has been denied, as provided in this act, or who has never applied for a vehicle group designation, and who operates a commercial motor vehicle within this state, except as permitted under this act, while any of those conditions exist is guilty of a misdemeanor, punishable, except as otherwise provided in this section, by imprisonment for not less than 3 days or more than 90 days, or a fine of not more than \$100.00, or both.

Section 2. This amendatory act shall take effect January 1, 1993.

Section 3. This amendatory act shall not take effect unless House Bill No. 4351 of the 86th Legislature is enacted into law.

.....  
Clerk of the House of Representatives.

.....  
Secretary of the Senate.

Approved .....

.....  
Governor.

