

Act No. 99
Public Acts of 1991
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**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1991**

Introduced by Reps. Perry Bullard, Nye, Profit, Palamara and Randall

Reps. Anthony, Baade, Bandstra, Bankes, Barns, Bartnik, Bobier, Bodem, Brackenridge, Willis Bullard, Byrum, Clack, Dalman, DeBeaussaert, DeMars, Dobb, Dobronski, Dolan, Dresch, Fitzgerald, Gagliardi, Gire, Gnodtke, Gubow, Harder, Hillegonds, Hoekman, Hoffman, Horton, Hunter, Jaye, Kosteva, London, McBryde, Middaugh, Middleton, Murphy, Olshove, Pitoniak, Power, Rocca, Shugars, Stallworth, Strand, Trim, Van Singel, Varga, Weeks, Wozniak and Yokich named co-sponsors

ENROLLED HOUSE BILL No. 4827

AN ACT to amend sections 8a, 18, 52, 310d, 312f, 313, 314b, 323, 323a, 323c, 625i, 727, and 732 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," sections 52, 310d, 323a, and 323c as amended and section 625i as added by Act No. 310 of the Public Acts of 1982, section 312f as amended by Act No. 181 of the Public Acts of 1990, sections 313 and 314b as amended by Act No. 280 of the Public Acts of 1989, sections 323 and 732 as amended by Act No. 346 of the Public Acts of 1988, and section 727 as amended by Act No. 63 of the Public Acts of 1983, being sections 257.8a, 257.18, 257.52, 257.310d, 257.312f, 257.313, 257.314b, 257.323, 257.323a, 257.323c, 257.625i, 257.727, and 257.732 of the Michigan Compiled Laws; and to add sections 24c and 45a.

The People of the State of Michigan enact:

Section 1. Sections 8a, 18, 52, 310d, 312f, 313, 314b, 323, 323a, 323c, 625i, 727, and 732 of Act No. 300 of the Public Acts of 1949, sections 52, 310d, 323a, and 323c as amended and section 625i as added by Act No. 310 of the Public Acts of 1982, section 312f as amended by Act No. 181 of the Public Acts of 1990, sections 313 and 314b as amended by Act No. 280 of the Public Acts of 1989, sections 323 and 732 as amended by Act No. 346 of the Public Acts of 1988, and section 727 as amended by Act No. 63 of the Public Acts of 1983, being sections 257.8a, 257.18, 257.52, 257.310d, 257.312f, 257.313, 257.314b, 257.323, 257.323a, 257.323c, 257.625i, 257.727, and 257.732 of the Michigan Compiled Laws, are amended and sections 24c and 45a are added to read as follows:

Sec. 8a. "Conviction" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt or probate court order of disposition for a child found to be within the provisions of chapter XIIA of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.28 of the Michigan Compiled Laws, on a traffic law violation charge, regardless of whether the penalty is rebated or suspended.

Sec. 18. (1) "Foreign vehicle" means a vehicle of a type required to be registered under this act and brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(2) "Former section 625(1) or (2)" means section 625(1) or (2) as amended by Act No. 391 of the Public Acts of 1978, Act No. 515 of the Public Acts of 1980, Act No. 309 of the Public Acts of 1982, or Act No. 109 of the Public Acts of 1987.

(3) "Former section 625b" means section 625b as amended by Act No. 285 of the Public Acts of 1976, Act No. 515 of the Public Acts of 1980, Act No. 309 of the Public Acts of 1982, or Act No. 109 of the Public Acts of 1987.

Sec. 24c. "Law of another state" means a law or ordinance enacted by another state or by a local unit of government in another state.

Sec. 45a. "Prosecuting attorney", except as the context otherwise requires, means the attorney general, the prosecuting attorney of a county, or the attorney representing a local unit of government.

Sec. 52. (1) "Revocation" means that the operator's or chauffeur's license and privilege to operate a motor vehicle on the public highways are terminated and shall not be renewed or restored until the later of the following:

(a) The expiration of not less than 1 year after the license was revoked.

(b) The expiration of not less than 5 years after the date of a subsequent revocation occurring within 7 years after the date of a prior revocation.

(2) If a license has been revoked, an application for a new license may be presented and acted upon by the secretary of state as provided in section 303.

(3) When referring to a dealer license, "revocation" means that a person's authorization to engage in business as a dealer is terminated and shall not be restored or renewed, except that an application for a new license may be considered at the discretion of the secretary of state.

Sec. 310d. (1) A license issued under this act to a person not previously licensed in this or in another state shall be designated as probationary for 3 years after the date of issuance. During the first 12 months of probation, the license may be suspended or probationary terms and conditions may be imposed upon failure of the licensee to appear before a magistrate, as provided in this chapter, or upon conviction of the licensee or determination of the licensee's responsibility for a moving violation in this state. The period of suspension or the probationary terms and conditions shall not be for more than 12 months and shall be determined by the secretary of state at an examination of the driver by the secretary of state.

(2) If a license is suspended or probationary terms and conditions are imposed by a probate judge, the period during which the suspension or probationary terms and conditions are in effect shall be deducted from the period of suspension or probationary terms and conditions imposed at an examination of the driver by the secretary of state pursuant to subsection (1). If a license is suspended or probationary terms and conditions are imposed by the probate judge, the probate court shall include the suspension, probationary terms, and conditions, and the period during which the suspension, probationary terms, and conditions apply, on the abstract which the court forwards to the secretary of state.

(3) Upon completion of the first 12 months of probation, the secretary of state may require a licensee to be reexamined by the secretary of state if the licensee's driving record contains any of the following:

(a) A conviction, civil infraction determination, or probate court disposition of a moving violation which was assessed 4 or more points as provided in section 320a.

(b) Three convictions, 3 civil infraction determinations, 3 probate court dispositions, or a combination of convictions, civil infraction determinations, and probate court dispositions which equals 3, for moving violations.

(c) A total of 6 or more points as provided in section 320a.

(d) A conviction, civil infraction determination, or probate court disposition of a moving violation and an accident for which the official police report indicates the licensee had been drinking intoxicating liquor.

- (e) A conviction, civil infraction determination, or probate court disposition of a moving violation and an accident for which the official police report indicates a moving violation on the part of the licensee.
 - (f) Three accidents for which the official police report indicates a moving violation on the part of the licensee.
 - (g) A suspension pursuant to section 625f.
- (4) The probationary period shall be extended beyond 3 years and the secretary of state may reexamine a licensee as provided in subsection (3), if any of the following occur and are recorded on the licensee's driving record during the last 10 months of the probationary period:
- (a) A moving violation resulting in a conviction or civil infraction determination.
 - (b) An accident for which the official police report indicates a moving violation on the part of the licensee.
 - (c) An accident for which the official police report indicates the licensee had been drinking intoxicating liquor.
 - (d) A license suspension for a reason other than a mental or physical disability.
- (5) The probationary period shall be extended pursuant to subsection (4) until the licensee completes 10 consecutive months without a moving violation, accident, or suspension enumerated in subsection (4).
- (6) The secretary of state, upon completion of a reexamination, may suspend or impose probationary terms and conditions on the license of a probationary licensee, except that a reexamination for subsection (3)(d), (e), or (f) shall not result in a license suspension or the imposition of probationary terms or conditions.
- (7) For 24 months immediately after a licensee's probationary period, the secretary of state may require the licensee to be reexamined by the secretary of state if the licensee's driver record has a total of 9 or more points, as provided in section 320a, imposed in a period of 2 years and if the licensee's record contains 1 or more of the following:
- (a) A conviction or probate court disposition, for a violation of section 625(1) 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) or former section 625(1) or (2).
 - (b) A conviction or probate court disposition for driving while visibly impaired due to consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.
 - (c) A suspension of the licensee's license pursuant to section 625f.
 - (d) An accident for which the official police report indicates a moving violation on the part of the licensee.
 - (e) An accident for which the official police report indicates the licensee had been drinking intoxicating liquor.
- (8) The secretary of state, upon completion of a reexamination pursuant to subsection (7), may suspend the license of the licensee, except that a reexamination for subsection (7)(d) or (e) shall not result in a license suspension or restriction.
- (9) If a licensee fails to appear for a reexamination scheduled by the secretary of state pursuant to this section, the licensee's license may be suspended immediately and remain suspended until the licensee appears for a reexamination by the secretary of state.
- (10) Notice of a reexamination required under this section shall be given by first class mail to the last known address of the licensee.
- (11) For purposes of this section:
- (a) Upon conviction for a moving violation, the date of the arrest for the violation shall be used in determining whether the conviction occurred within the probationary period.
 - (b) Upon entry of a civil infraction determination for a moving violation, the date of issuance of a citation for a civil infraction shall be used in determining whether the civil infraction determination occurred within the probationary period.
 - (c) Information of a reexamination shall not be placed on a driver's record unless the secretary of state suspends a license or imposes probationary terms and conditions.
 - (d) A suspension shall be considered part of a driving record from the date the suspension is imposed until the suspension is terminated.
 - (e) The date of the official police report shall be used in determining whether a licensee was driving a motor vehicle involved in an accident for which the official police report indicates a moving violation on the part of the licensee or indicates the licensee had been drinking intoxicating liquor.

Sec. 312f. (1) Except as otherwise provided in this section, a person shall be at least 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 the person shall pass an examination as provided in this section and

pursuant to 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 at least 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 which shall include 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 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 which 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) except if 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 when 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, 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 or indorsement to an applicant for an original group designation or indorsement who comes under 1 or more of the following conditions:

(a) 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 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) 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) Is listed on the national driver register or on a commercial driver license information system in the United States department of transportation as being disqualified from operating a motor vehicle.

(d) Is listed on the national driver register or on a commercial driver license information system in the United States department of transportation as having had a license suspended, revoked, or canceled in the 36 months immediately preceding application.

(e) Is listed on the national driver register or on a commercial driver license information system in the United States department of transportation as having been convicted of or incurred a bond forfeiture in relation to any of the offenses specified in section 205(a)(3) of the national driver register act of 1982, as set forth in section 401 note of title 23 of the United States Code, 23 U.S.C. 401 note.

(f) Is subject to a suspension under section 319b.

(g) Has been disqualified under title XII of Public Law 99-570, 100 Stat. 3207-170, within 36 months immediately preceding the date of application.

(4) The secretary of state shall only consider violations listed under subsection (3)(e) and bond forfeitures under subsection (3)(b) for violations which occurred on or after October 1, 1989 when determining the applicability of subsection (3).

Sec. 313. (1) Except as provided in subsection (2), if an operator's or chauffeur's license issued under this chapter is lost, destroyed, or mutilated, or becomes illegible, the person to whom the license was issued may obtain a duplicate upon the payment of the fee required in section 812, upon furnishing proof satisfactory to the secretary of state that the license has been lost, destroyed, or mutilated, or has become illegible, and upon certifying that the license is not being held by a court as a condition of that person's recognizance.

(2) Subsection (1) does not apply if the operator's or chauffeur's license is destroyed pursuant to section 625b(12) or section 625g(1)(b)(iii).

Sec. 314b. (1) The secretary of state may issue a 2-year license which shall expire on the birthday of the person to whom it is issued when a licensed driver is charged in the 24 months immediately preceding the expiration date of that person's current license with a total of 12 or more points as provided in section 320a, or

has his or her license suspended or revoked for a reason other than those provided in section 321a, 515, or 801c in the 36 months immediately preceding the expiration date of his or her current license, or was convicted of any 6-point violation as provided in section 320a or a violation of section 625(3) or former section 625b in the 36 months immediately preceding the expiration date of his or her current license.

(2) A person issued a 2-year license shall pay the following fees:

Operator's license renewal	\$ 6.00
Chauffeur's license renewal	10.00
Motorcycle indorsement original.....	6.00
Motorcycle indorsement renewal	5.00
Vehicle group designation	20.00
Vehicle indorsement	5.00

(3) Two dollars of each renewal motorcycle indorsement fee shall be placed in a motorcycle safety fund in the state treasury and shall be used only for funding the motorcycle safety education program as provided under sections 312b and 811a.

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 which shall include 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 which would permit a person to drive a truck or truck tractor, including a trailer, which 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 shall 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 625b, former section 625(1) or (2), or former section 625b, or a local ordinance substantially corresponding to section 625(1), (2), or (3), 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 shall not apply to a denial, revocation, suspension, or restriction imposed pursuant to the financial responsibility act contained in chapter V.

Sec. 323a. (1) A person who is aggrieved by a final determination of the secretary of state suspending or revoking the operator's or chauffeur's license of the person may, within 63 days after the determination, petition the circuit court for the county in which the conviction or civil infraction determination resulting in the license being suspended or revoked was entered, or the circuit court for the county of residence of the person if the license was suspended or revoked as provided in section 318, or for the accumulation of 12 or more points as provided in sections 320 and 320a, for an order staying the revocation or suspension of the license. Except as provided in subsection (2), the court may enter an ex parte order staying the suspension or revocation subject to terms and conditions prescribed by the court until the determination of an appeal to the secretary of state or of an appeal or a review by the circuit court, or for a lesser time which the court considers proper, except that the court shall not enter an ex parte order staying the suspension or revocation of a person who drives a truck or truck tractor, including a trailer, which hauls hazardous material.

(2) The court shall not enter an ex parte order staying the suspension, denial, or revocation if the order is based upon a claim of undue hardship.

(3) This section shall not apply to a suspension for a violation of the financial responsibility act contained in chapter V.

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. The court shall not order the secretary of state to issue a restricted chauffeur's license which would permit a person to operate a truck or truck tractor, including a trailer, which 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 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. 625i. (1) The department of state police shall prepare an annual report which shall be designated the Michigan annual drunk driving audit. The secretary of state, circuit court, district court, probate court, municipal courts, and local units of government in this state shall cooperate with the department of state police to provide information necessary for the preparation of the report. A copy of the report prepared under this subsection shall be submitted to the governor, the secretary of the senate, the clerk of the house of representatives, and the secretary of state on June 1 of each year. The report shall contain for each county in the state all of the following information applicable to the immediately preceding calendar year:

(a) The number of alcohol related motor vehicle accidents resulting in bodily injury, including a breakdown of the number of those injuries occurring per capita of population and per road mile in the county.

(b) The number of alcohol related motor vehicle accidents resulting in death, including the breakdown described in subdivision (a).

(c) The number of alcohol related motor vehicle accidents, other than those enumerated in subdivisions (a) and (b), including the breakdown described in subdivision (a).

(d) The number of arrests made for violations of section 625(1)(a) or (b) or local ordinances substantially corresponding to section 625(1)(a) or (b).

(e) The number of arrests made for violations of section 625(3) or local ordinances substantially corresponding to section 625(3).

(f) The number of arrests made for violations of section 625(4) or (5).

(g) The number of operator's or chauffeur's licenses suspended pursuant to section 625f.

(h) The number of arrests made for violations of section 625m or local ordinances substantially corresponding to section 625m. This subdivision shall apply after December 31, 1992.

(2) The secretary of state shall compile a report of dispositions of charges for violations of section 625(1), (3), (4), or (5), or local ordinances substantially corresponding to section 625(1) or (3) or section 625m or local ordinances substantially corresponding to section 625m by each judge for inclusion in the annual report. The report compiled by the secretary of state shall include information regarding all of the following:

(a) The number of dismissals granted.

(b) The number of convictions entered.

(c) The number of acquittals entered.

(d) The number of licenses suspended, revoked, or restricted.

(e) The average length of imprisonment imposed.

(f) The average length of community service imposed in lieu of imprisonment.

(g) The average fine imposed.

(3) The secretary of state shall enter into a contract with the university of Michigan transportation research institute, in which the university of Michigan transportation research institute shall evaluate the effect and impact of the 1991 legislation addressing drunk and impaired driving in this state and report its findings to the governor and the legislature not later than October 1, 1994.

Sec. 727. If a person is arrested without a warrant in any of the following cases, the arrested person shall, without unreasonable delay, be taken before the magistrate who is nearest or most accessible within the judicial district as provided in section 13 of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 764.13 of the Michigan Compiled Laws, or, if a minor, before the probate court within the county in which the offense charged is alleged to have been committed:

(a) If the person is arrested upon a charge of negligent homicide.

(b) If the person is arrested under section 625(1), (3), (4), or (5), or an ordinance substantially corresponding to section 625(1) or (3).

(c) If a person is arrested under section 626 or an ordinance substantially corresponding to that section. If under the existing circumstances it does not appear that releasing the person pending the issuance of a warrant will constitute a public menace, the arresting officer may proceed as provided by section 728.

(d) If a person arrested does not have in his or her immediate possession a valid operator's or chauffeur's license or the receipt described in section 311a. If the arresting officer otherwise satisfactorily determines the identity of the person and the practicability of subsequent apprehension in the event of the person's failure to voluntarily appear before a designated magistrate or probate court as directed, the officer may release the person from custody with instructions to appear in court, given in the form of a citation as prescribed by section 728.

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 XA 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 the name, address, and date of birth of the person charged or cited; the number of the person's operator's or chauffeur's license, if any; the date and nature of the violation; 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; the date of the conviction, finding, forfeiture, judgment, or determination; whether bail was forfeited; any license revocation, restriction, suspension, or denial ordered by the court pursuant to this act; and 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 XIIA of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.28 of the Michigan Compiled Laws, involving 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; a violation of section 1 of Act No. 214 of the Public Acts of 1931, being section 752.191 of the Michigan Compiled Laws; or an attempt to commit any of these offenses.

(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 (f) 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 (f), 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 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 under section 319b(1)(c)(iii), (d), or (e)(iii) or (v), 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 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 which 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 which 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 which 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 which occurred after October 1, 1989 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 which 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 when 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.

Section 2. This amendatory act shall take effect January 1, 1992.

Section 3. This amendatory act shall not take effect unless all of the following bills of the 86th Legislature are enacted into law:

- (a) Senate Bill No. 314.
- (b) Senate Bill No. 315.
- (c) House Bill No. 4828.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved

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Governor.