

HOUSE BILL No. 4827

May 14, 1991, Introduced by Reps. Perry Bullard, Nye, Profit, Palamara and Randall and referred to the Committee on Judiciary.

A bill 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

"Michigan vehicle code,"

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:

1 Section 1. Sections 8a, 18, 52, 310d, 312f, 313, 314b, 323,
2 323a, 323c, 625i, 727, and 732 of Act No. 300 of the Public Acts
3 of 1949, sections 52, 310d, 323a, and 323c as amended and section
4 625i as added by Act No. 310 of the Public Acts of 1982,
5 section 312f as amended by Act No. 181 of the Public Acts of
6 1990, sections 313 and 314b as amended by Act No. 280 of the
7 Public Acts of 1989, sections 323 and 732 as amended by Act
8 No. 346 of the Public Acts of 1988, and section 727 as amended by
9 Act No. 63 of the Public Acts of 1983, being sections 257.8a,
10 257.18, 257.52, 257.310d, 257.312f, 257.313, 257.314b, 257.323,
11 257.323a, 257.323c, 257.625i, 257.727, and 257.732 of the
12 Michigan Compiled Laws, are amended and sections 24c and 45a are
13 added to read as follows:

14 Sec. 8a. "Conviction" means a final conviction, the pay-
15 ment of a fine, a plea of guilty OR NOLO CONTENDERE IF ACCEPTED
16 BY THE COURT, or a finding of guilt OR PROBATE COURT ORDER OF
17 DISPOSITION FOR A CHILD FOUND TO BE WITHIN THE PROVISIONS OF
18 CHAPTER XIIIA OF ACT NO. 288 OF THE PUBLIC ACTS OF 1939, BEING
19 SECTIONS 712A.1 TO 712A.28 OF THE MICHIGAN COMPILED LAWS, on a
20 traffic law violation charge, regardless of whether the penalty
21 is rebated or suspended.

22 Sec. 18. (1) "Foreign vehicle" means ~~every~~ A vehicle of a
23 type required to be registered ~~hereunder~~ UNDER THIS ACT AND
24 brought into this state from another state, territory, or country
25 other than in the ordinary course of business by or through a
26 manufacturer or dealer, and not registered in this state.

1 (2) "FORMER SECTION 625(1) OR (2)" MEANS SECTION 625(1) OR
2 (2) AS AMENDED BY ACT NO. 391 OF THE PUBLIC ACTS OF 1978, ACT
3 NO. 515 OF THE PUBLIC ACTS OF 1980, ACT NO. 309 OF THE PUBLIC
4 ACTS OF 1982, OR ACT NO. 109 OF THE PUBLIC ACTS OF 1987.

5 (3) "FORMER SECTION 625B" MEANS SECTION 625B AS AMENDED BY
6 ACT NO. 285 OF THE PUBLIC ACTS OF 1976, ACT NO. 515 OF THE PUBLIC
7 ACTS OF 1980, ACT NO. 309 OF THE PUBLIC ACTS OF 1982, OR ACT
8 NO. 109 OF THE PUBLIC ACTS OF 1987.

9 SEC. 24C. "LAW OF ANOTHER STATE" MEANS A LAW OR ORDINANCE
10 ENACTED BY ANOTHER STATE OR BY A LOCAL UNIT OF GOVERNMENT IN
11 ANOTHER STATE.

12 SEC. 45A. "PROSECUTING ATTORNEY", EXCEPT AS THE CONTEXT
13 OTHERWISE REQUIRES, MEANS THE ATTORNEY GENERAL, THE PROSECUTING
14 ATTORNEY OF A COUNTY, OR THE ATTORNEY REPRESENTING A LOCAL UNIT
15 OF GOVERNMENT.

16 Sec. 52. (1) "Revocation" means that the operator's or
17 chauffeur's license and privilege to operate a motor vehicle on
18 the public highways are terminated and shall not be renewed or
19 restored ~~—, except that an~~ UNTIL THE LATER OF THE FOLLOWING:

20 (A) THE EXPIRATION OF NOT LESS THAN 1 YEAR AFTER THE LICENSE
21 WAS REVOKED.

22 (B) THE EXPIRATION OF NOT LESS THAN 5 YEARS AFTER THE DATE
23 OF A SUBSEQUENT REVOCATION OCCURRING WITHIN 7 YEARS AFTER THE
24 DATE OF A PRIOR REVOCATION.

25 (2) IF A LICENSE HAS BEEN REVOKED, AN application for a new
26 license may be presented and acted upon by the secretary of state
27 as provided in section 303.

1 (3) ~~-(2)-~~ When referring to a dealer license, "revocation"
2 means that a person's authorization to engage in business as a
3 dealer is terminated and shall not be restored or renewed, except
4 that an application for a new license may be considered at the
5 discretion of the secretary of state.

6 Sec. 310d. (1) ~~After October 1, 1979, a~~ A license issued
7 under this act ~~—~~ to a person not previously licensed in this or
8 in another state shall be designated as probationary for 3 years
9 after the date of issuance. During the first 12 months of proba-
10 tion, the license may be suspended or probationary terms and con-
11 ditions may be imposed upon failure of the licensee to appear
12 before a magistrate, as provided in this chapter, or upon convic-
13 tion of the licensee or determination of the licensee's responsi-
14 bility for a moving violation in this state. The period of sus-
15 pension or the probationary terms and conditions shall not be for
16 more than 12 months and shall be determined by the secretary of
17 state at an examination of the driver by the secretary of state.

18 (2) If a license is suspended or probationary terms and con-
19 ditions are imposed by a probate judge, the period during which
20 the suspension or probationary terms and conditions are in effect
21 shall be deducted from the period of suspension or probationary
22 terms and conditions imposed at an examination of the driver by
23 the secretary of state pursuant to subsection (1). If a license
24 is suspended or probationary terms and conditions are imposed by
25 the probate judge, the probate court shall include the suspen-
26 sion, probationary terms, and conditions, and the period during
27 which the suspension, probationary terms, and conditions apply,

1 on the abstract which the court forwards to the secretary of
2 state.

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

7 (a) A conviction, civil infraction determination, or probate
8 court ~~finding~~ DISPOSITION of a moving violation which was
9 assessed 4 or more points as provided in section 320a.

10 (b) Three convictions, 3 civil infraction determinations, 3
11 probate court ~~findings~~ DISPOSITIONS, or a combination of con-
12 victions, civil infraction determinations, and probate court
13 ~~findings~~ DISPOSITIONS which equals 3, for moving violations.

14 (c) A total of 6 or more points as provided in section
15 320a.

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

20 (e) A conviction, civil infraction determination, or probate
21 court ~~finding~~ DISPOSITION of a moving violation and an accident
22 for which the official police report indicates a moving violation
23 on the part of the licensee.

24 (f) Three accidents for which the official police report
25 indicates a moving violation on the part of the licensee.

26 (g) A suspension pursuant to section 625f.

1 (4) The probationary period shall be extended beyond 3 years
2 and the secretary of state may reexamine a licensee as provided
3 in subsection (3), if any of the following occur and are recorded
4 on the licensee's driving record during the last 10 months of the
5 probationary period:

6 (a) A moving violation resulting in a conviction or civil
7 infraction determination.

8 (b) An accident for which the official police report indi-
9 cates a moving violation on the part of the licensee.

10 (c) An accident for which the official police report indi-
11 cates the licensee had been drinking intoxicating liquor.

12 (d) A license suspension for a reason other than a mental or
13 physical disability.

14 (5) The probationary period shall be extended pursuant to
15 subsection (4) until the licensee completes 10 consecutive months
16 without a moving violation, accident, or suspension enumerated in
17 subsection (4).

18 (6) The secretary of state, upon completion of a reexamina-
19 tion, may suspend or impose probationary terms and conditions on
20 the license of a probationary licensee, except that a reexamina-
21 tion for subsection (3)(d), (e), ~~and~~ OR (f) ~~may~~ SHALL not
22 result in a license suspension or the imposition of probationary
23 terms or conditions.

24 (7) For 24 months immediately after a licensee's probation-
25 ary period, the secretary of state may require the licensee to be
26 reexamined by the secretary of state if the licensee's driver
27 record has a total of 9 or more points, as provided in section

1 320a, imposed in a period of 2 years and if the licensee's record
2 contains 1 or more of the following:

3 (a) A conviction or probate court ~~finding~~ DISPOSITION, for
4 a violation of section 625(1) OR FORMER SECTION 625(1) or (2), a
5 local ordinance substantially corresponding to section 625(1) OR
6 FORMER SECTION 625(1) or (2), or a law of another state substan-
7 tially corresponding to section 625(1) OR FORMER SECTION 625(1)
8 or (2).

9 (b) A conviction or probate court ~~finding~~ DISPOSITION for
10 driving while visibly impaired due to consumption of intoxicating
11 liquor, a controlled substance, or a combination of intoxicating
12 liquor and a controlled substance.

13 (c) A suspension of the licensee's license pursuant to sec-
14 tion 625f.

15 (d) An accident for which the official police report indi-
16 cates a moving violation on the part of the licensee.

17 (e) An accident for which the official police report indi-
18 cates the licensee had been drinking intoxicating liquor.

19 (8) The secretary of state, upon completion of a reexamina-
20 tion pursuant to subsection (7), may suspend the license of the
21 licensee, except that a reexamination for subsection (7)(d) ~~and~~
22 OR (e) ~~may~~ SHALL not result in a license suspension or
23 restriction.

24 (9) If a licensee fails to appear for a reexamination sched-
25 uled by the secretary of state pursuant to this section, the
26 licensee's license may be suspended immediately and remain

1 suspended until the licensee appears for a reexamination by the
2 secretary of state.

3 (10) Notice of a reexamination required under this section
4 shall be given by first class mail to the last known address of
5 the licensee.

6 (11) For purposes of this section:

7 (a) Upon conviction for a moving violation, the date of the
8 arrest for the violation shall be used in determining whether the
9 conviction occurred within the probationary period.

10 (b) Upon entry of a civil infraction determination for a
11 moving violation, the date of issuance of a citation for a civil
12 infraction shall be used in determining whether the civil infrac-
13 tion determination occurred within the probationary period.

14 (c) Information of a reexamination shall not be placed on a
15 driver's record unless the secretary of state suspends a license
16 or imposes probationary terms and conditions.

17 (d) A suspension shall be considered part of a driving
18 record from the date the suspension is imposed until the suspen-
19 sion is terminated.

20 (e) The date of the official police report shall be used in
21 determining whether a licensee was driving a motor vehicle
22 involved in an accident for which the official police report
23 indicates a moving violation on the part of the licensee or indi-
24 cates the licensee had been drinking intoxicating liquor.

25 Sec. 312f. (1) Except as otherwise provided in this sec-
26 tion, a person shall be at least 18 years of age before he or she
27 is issued a vehicle group designation or indorsement, other than

1 a motorcycle indorsement on an operator's or chauffeur's license
2 and the person shall pass an examination as provided in this sec-
3 tion and pursuant to 49 C.F.R. part 383. A person operating a
4 vehicle to be used for farming purposes only may obtain a group
5 A, a group B, or an F vehicle group designation if he or she is
6 at least 16 years of age. Each written examination given an
7 applicant for a vehicle group designation or indorsement on an
8 operator's or chauffeur's license shall include subjects designed
9 to cover the type or general class of vehicle to be operated. A
10 person shall pass an examination which shall include a driving
11 test designed to test competency of the applicant for an original
12 vehicle group designation and passenger indorsement on an
13 operator's or chauffeur's license to drive that type or general
14 class of vehicle upon the highways of this state with safety to
15 that person and other persons and property, except that the sec-
16 retary of state may waive the requirement for a driving test for
17 a vehicle group designation and passenger indorsement upon
18 receipt of adequate evidence of experience, testing, and driving
19 record as prescribed under 49 C.F.R. part 383 and section 307 in
20 operating the vehicle group which the applicant intends to
21 drive. The secretary of state shall waive the driving skills
22 test for a person operating a vehicle that is used under the con-
23 ditions described in ~~subsection (4)(a) to (d)~~
24 SECTION 312E(4)(A) TO (D) except if the vehicle has a gross vehi-
25 cle weight rating of 26,001 pounds or more on the power unit and
26 is to be used to carry hazardous materials on which a placard is
27 required under 49 C.F.R. parts 100 to 199. The driving test may

1 be waived when the applicant has a valid license, indorsement, or
2 vehicle group designation to operate that type or group of vehi-
3 cle in another state except that the driving test for a vehicle
4 group designation or passenger vehicle indorsement may not be
5 waived unless the applicant has a valid license with the appro-
6 priate vehicle group designation or passenger vehicle indorsement
7 in another state issued in compliance with the commercial motor
8 vehicle safety act of 1986, Public Law 99-570, 100 Stat. ~~3207-~~
9 3207-170.

10 (2) The secretary of state may enter into an agreement with
11 another public or private person or agency to conduct a skills
12 test required under this section, section 312e, or 49 C.F.R. part
13 383.

14 (3) The secretary of state shall not issue a vehicle group
15 designation or indorsement to an applicant for an original group
16 designation or indorsement who comes under 1 or more of the fol-
17 lowing conditions:

18 (a) Has had his or her license suspended or revoked for a
19 reason other than as provided in section 321a, 515, or 801c in
20 the 36 months immediately preceding application, except that a
21 designation may be issued if the suspension or revocation was due
22 to a temporary medical condition or failure to appear at a reex-
23 amination as provided in section 320.

24 (b) Was convicted of or incurred a bond forfeiture in rela-
25 tion to a 6-point violation as provided in section 320a IN THE 24
26 MONTHS IMMEDIATELY PRECEDING APPLICATION, or a violation of
27 SECTION 625(3) OR FORMER section 625b, OR A LOCAL ORDINANCE

1 SUBSTANTIALLY CORRESPONDING TO SECTION 625(3) OR FORMER SECTION
2 625B in the 24 months immediately preceding application, if the
3 violation ~~of section 625b~~ occurred while the applicant was
4 operating a type of vehicle that is operated under a vehicle
5 group designation.

6 (c) Is listed on the national driver register or on a com-
7 mercial driver license information system in the United States
8 department of transportation as being disqualified from operating
9 a motor vehicle.

10 (d) Is listed on the national driver register or on a com-
11 mercial driver license information system in the United States
12 department of transportation as having had a license suspended,
13 revoked, or canceled in the 36 months immediately preceding
14 application.

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

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

23 (g) Has been disqualified under title XII of Public Law
24 99-570, 100 Stat. ~~3207~~ 3207-170, within 36 months immediately
25 preceding the date of application.

26 (4) The secretary of state shall only consider violations
27 listed under subsection (3)(e) and bond forfeitures under

1 subsection (3)(b) for violations which occurred on or after
2 October 1, 1989 when determining the applicability of subsection
3 (3).

4 Sec. 313. (1) ~~if~~ EXCEPT AS PROVIDED IN SUBSECTION (2), IF
5 an operator's or chauffeur's license issued under this chapter is
6 lost, destroyed, or mutilated, or becomes illegible, the person
7 to whom the license was issued may obtain a duplicate upon the
8 payment of the fee required in section 812, upon furnishing proof
9 satisfactory to the secretary of state that the license has been
10 lost, destroyed, or mutilated, or has become illegible, and upon
11 certifying that the license is not being held by a court as a
12 condition of that person's recognizance.

13 (2) SUBSECTION (1) DOES NOT APPLY IF THE OPERATOR'S OR
14 CHAUFFEUR'S LICENSE IS DESTROYED PURSUANT TO SECTION 625B(12) OR
15 SECTION 625G(1)(B)(iii).

16 Sec. 314b. (1) The secretary of state may issue a 2-year
17 license which shall expire on the birthday of the person to whom
18 it is issued when a licensed driver is charged in the 24 months
19 immediately preceding the expiration date of that person's cur-
20 rent license with a total of 12 or more points as provided in
21 section 320a, or has his or her license suspended or revoked for
22 a reason other than those provided in ~~sections~~ SECTION 321a,
23 515, or 801c in the 36 months immediately preceding the expira-
24 tion date of his or her current license, or was convicted of any
25 6-point violation as provided in section 320a or a violation
26 ~~provided in~~ OF section 625(3) OR FORMER SECTION 625b in the 36

1 months immediately preceding the expiration date of his or her
2 current license.

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

5	Operator's license renewal.....	\$ 6.00
6	Chauffeur's license renewal.....	10.00
7	Motorcycle indorsement original.....	6.00
8	Motorcycle indorsement renewal.....	5.00
9	Vehicle group designation.....	20.00
10	Vehicle indorsement.....	5.00

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

15 Sec. 323. (1) A person who is aggrieved by a final determi-
16 nation of the secretary of state denying the person an operator's
17 or chauffeur's license, a vehicle group designation, or an
18 indorsement on a license or revoking, suspending, or restricting
19 an operator's or chauffeur's license, vehicle group designation,
20 or an indorsement may petition for a review of the determination
21 in the circuit court in the county where the person was arrested
22 if the denial or suspension was imposed pursuant to section 625f
23 or pursuant to the order of a trial court under section 328 or,
24 in all other cases, in the circuit court in the county of resi-
25 dence of the person. THE PETITION SHALL BE FILED WITHIN 63 DAYS
26 AFTER THE DETERMINATION IS MADE EXCEPT THAT FOR GOOD CAUSE SHOWN
27 THE COURT MAY ALLOW THE PETITION TO BE FILED WITHIN 182 DAYS

1 AFTER THE DETERMINATION IS MADE. AS PROVIDED IN SECTION 625F, A
2 PEACE OFFICER WHO IS AGGRIEVED BY A DETERMINATION OF A HEARING
3 OFFICER IN FAVOR OF A PERSON WHO REQUESTED A HEARING UNDER
4 SECTION 625F MAY, WITH THE CONSENT OF THE PROSECUTING ATTORNEY,
5 PETITION FOR REVIEW OF THE DETERMINATION IN THE CIRCUIT COURT IN
6 THE COUNTY WHERE THE ARREST WAS MADE. THE PETITION SHALL BE FILED
7 WITHIN 63 DAYS AFTER THE DETERMINATION IS MADE EXCEPT THAT FOR
8 GOOD CAUSE SHOWN THE COURT MAY ALLOW THE PETITION TO BE FILED
9 WITHIN 182 DAYS AFTER THE DETERMINATION IS MADE.

10 (2) The circuit court shall enter an order setting the cause
11 for hearing for a day certain ~~in not to exceed 60~~ THAT IS NOT
12 MORE THAN 63 days after the date of the order. The order,
13 together with a copy of the petition which shall include the
14 person's full name, current address, birth date, and driver's
15 license number, and all supporting affidavits, shall be served on
16 the secretary of state's office in Lansing not less than 20 days
17 before the date set for the hearing. If the person is seeking a
18 review of the record prepared pursuant to section ~~625f(3) to~~
19 ~~determine whether the hearing officer properly determined the~~
20 ~~issues enumerated in section 625f(2), then~~ 322 OR SECTION 625F,
21 the service upon the secretary of state shall be made not less
22 than 50 days before the date set for the hearing.

23 (3) Except as provided in ~~subsection~~ SUBSECTIONS (4) AND
24 (6), the court may take testimony and examine into all the facts
25 and circumstances incident to the denial, suspension, restric-
26 tion, or revocation of the person's license. The court may
27 affirm, modify, or set aside the restriction, suspension,

1 revocation, or denial except that the court shall not order the
 2 secretary of state to issue a restricted or unrestricted
 3 chauffeur's license which would permit a person to drive a truck
 4 or truck tractor, including a trailer, which hauls a hazardous
 5 material. The order of the court shall be duly entered and THE
 6 PETITIONER SHALL FILE a certified copy ~~shall be filed~~
 7 ~~immediately~~ OF THE ORDER with the secretary of state's office in
 8 Lansing WITHIN 7 DAYS AFTER ENTRY OF THE ORDER.

9 (4) In reviewing a determination ~~resulting in a denial or~~
 10 ~~suspension~~ under section 625f, the court shall confine its con-
 11 sideration to 1 or both of the following:

12 (a) A review of the record prepared pursuant to section
 13 625f(3) to determine whether the hearing officer properly deter-
 14 mined the issues enumerated in section ~~625f(2)~~ 625F.

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

17 (5) This section shall not apply to a denial, revocation,
 18 suspension, or restriction imposed pursuant to a court order
 19 issued as part of the sentence for ~~of a conviction of a viola-~~
 20 ~~tion of~~ UNDER section 625, SECTION 625B, FORMER SECTION 625(1)
 21 OR (2), or FORMER SECTION 625b, or a local ordinance substan-
 22 tially corresponding to section 625(1), (2), OR (3), FORMER
 23 SECTION 625(1) or (2), or FORMER SECTION 625b.

24 (6) IN REVIEWING A DETERMINATION RESULTING IN A DENIAL OR
 25 REVOCATION UNDER SECTION 303(1)(D) OR (E) OR 303(2)(C), (D), OR
 26 (E), THE COURT SHALL CONFINE ITS CONSIDERATION TO A REVIEW OF THE
 27 RECORD PREPARED PURSUANT TO SECTION 322 OR THE DRIVING RECORD

1 CREATED UNDER SECTION 204A. THE COURT SHALL SET ASIDE THE
2 DETERMINATION OF THE SECRETARY OF STATE ONLY IF SUBSTANTIAL
3 RIGHTS OF THE PETITIONER HAVE BEEN PREJUDICED BECAUSE THE DETER-
4 MINATION IS ANY OF THE FOLLOWING:

5 (A) IN VIOLATION OF THE CONSTITUTION OF THE UNITED STATES,
6 OF THE STATE CONSTITUTION OF 1963, OR OF A STATUTE.

7 (B) IN EXCESS OF THE STATUTORY AUTHORITY OR JURISDICTION OF
8 THE SECRETARY OF STATE.

9 (C) MADE UPON UNLAWFUL PROCEDURE RESULTING IN MATERIAL PREJ-
10 UDICE TO THE PETITIONER.

11 (D) NOT SUPPORTED BY COMPETENT, MATERIAL, AND SUBSTANTIAL
12 EVIDENCE ON THE WHOLE RECORD.

13 (E) ARBITRARY, CAPRICIOUS, OR CLEARLY AN ABUSE OR UNWAR-
14 RANTED EXERCISE OF DISCRETION.

15 (F) AFFECTED BY OTHER SUBSTANTIAL AND MATERIAL ERROR OF LAW.

16 (7) ~~-(6)-~~ This section shall not apply to a denial, revoca-
17 tion, suspension, or restriction imposed pursuant to the finan-
18 cial responsibility act contained in chapter V.

19 Sec. 323a. (1) A person who is aggrieved by a final deter-
20 mination of the secretary of state suspending or revoking the
21 operator's or chauffeur's license of the person may, WITHIN 63
22 DAYS AFTER THE DETERMINATION, petition the circuit court for the
23 county in which ~~was entered~~ the conviction or civil infraction
24 determination resulting in the license being suspended or revoked
25 WAS ENTERED, or the circuit court for the county of residence of
26 the person if the license was suspended or revoked as provided in
27 section 318, or for the accumulation of 12 or more points as

1 provided in sections 320 and 320a, for an order staying the
2 revocation or suspension of the license. ~~The~~ EXCEPT AS PRO-
3 VIDED IN SUBSECTION (2), THE court may enter an ex parte order
4 staying the suspension or revocation subject to terms and condi-
5 tions prescribed by the court until the determination of an
6 appeal to the secretary of state or of an appeal or a review by
7 the circuit court, or for a lesser time which the court considers
8 proper, except that the court shall not enter an ex parte order
9 staying the suspension or revocation of a person who drives a
10 truck or truck tractor, including a trailer, which hauls hazard-
11 ous material.

12 (2) THE COURT SHALL NOT ENTER AN EX PARTE ORDER STAYING THE
13 SUSPENSION, DENIAL, OR REVOCATION IF THE ORDER IS BASED UPON A
14 CLAIM OF UNDUE HARDSHIP.

15 (3) ~~(2)~~ This section shall not apply to a suspension for a
16 violation of the financial responsibility act contained in chap-
17 ter V.

18 Sec. 323c. (1) A person denied a license to operate a motor
19 vehicle or whose license for that purpose has been suspended by
20 the secretary of state under section 625f has a right to a review
21 of the matter in circuit court as provided in sections 323 and
22 323a. Except as provided in this section, the court may order
23 the secretary of state to issue to the person a restricted
24 license permitting the person to drive only to and from the
25 person's residence and work location; in the course of the
26 person's employment or occupation; to and from an alcohol or drug
27 education program or treatment program as ordered by a court; TO

1 AND FROM THE PERSON'S RESIDENCE AND THE COURT PROBATION
2 DEPARTMENT, OR A COURT-ORDERED COMMUNITY SERVICE PROGRAM, OR
3 BOTH; to and from the person's residence and an educational
4 institution at which the person is enrolled as a student; or pur-
5 suant to a combination of these restrictions. The court shall
6 not order the secretary of state to issue a restricted
7 chauffeur's license which would permit a person to operate a
8 truck or truck tractor, including a trailer, which hauls hazard-
9 ous material. The court shall not order the secretary of state
10 to issue a restricted license unless the person states under oath
11 and the court finds that the person is unable to take public
12 transportation to and from his or her work location, place of
13 alcohol or drug education or treatment, or educational institu-
14 tion, and does not have a family member or other able to provide
15 transportation. The court order and license shall indicate the
16 person's work location and the approved route or routes and per-
17 mitted times of travel. For purposes of this section, "work
18 location" includes, as applicable, either or both of the
19 following:

20 (a) The specific place or places of employment.

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

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

26 (3) Notwithstanding any other provision of this section, the
27 court shall not issue a restricted license to a person who has

1 accumulated over 24 points, as provided in section 320a, within
 2 the 2-year period preceding the date of the suspension of his or
 3 her license.

4 Sec. 625i. (1) The department of state police shall prepare
 5 an annual report which shall be designated the Michigan annual
 6 drunk driving audit. THE SECRETARY OF STATE, CIRCUIT COURT, DIS-
 7 TRICT COURT, PROBATE COURT, AND LOCAL UNITS OF GOVERNMENT IN THIS
 8 STATE SHALL COOPERATE WITH THE DEPARTMENT OF STATE POLICE TO PRO-
 9 VIDE INFORMATION NECESSARY FOR THE PREPARATION OF THE REPORT. A
 10 COPY OF THE REPORT PREPARED UNDER THIS SUBSECTION SHALL BE SUB-
 11 MITTED TO THE GOVERNOR, THE SECRETARY OF THE SENATE, THE CLERK OF
 12 THE HOUSE OF REPRESENTATIVES, AND THE SECRETARY OF STATE ON
 13 JUNE 1 OF EACH YEAR. The report shall contain for each county in
 14 the state all of the following information applicable to the
 15 immediately preceding calendar year:

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

20 (b) The number of alcohol related motor vehicle accidents
 21 resulting in death, including the breakdown described in subdivi-
 22 sion (a).

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

26 (d) The number of arrests made for ~~a violation~~ VIOLATIONS
 27 of section ~~625(1) or (2)~~, 625(1)(A) OR (B) or ~~a~~ local

1 ~~ordinance~~ ORDINANCES substantially corresponding to section
2 ~~625(1) or (2)~~ 625(1)(A) OR (B).

3 (e) The number of arrests made for ~~a violation~~ VIOLATIONS
4 of section ~~625b~~ 625(3) or ~~a local ordinance~~ ORDINANCES sub-
5 stantially corresponding to section ~~625b~~ 625(3).

6 (F) THE NUMBER OF ARRESTS MADE FOR VIOLATIONS OF
7 SECTION 625(4) OR (5).

8 (G) ~~(f)~~ The number of operator's or chauffeur's licenses
9 suspended pursuant to section 625f. ~~for refusal to submit to a~~
10 ~~chemical test.~~

11 ~~(g) The number of convictions of crimes enumerated in sub-~~
12 ~~divisions (d) and (e).~~

13 ~~(h) The number of licenses suspended or revoked as a result~~
14 ~~of convictions of crimes enumerated in subdivisions (d) and (e).~~

15 ~~(i) The number of restricted licenses issued as a result of~~
16 ~~convictions of crimes enumerated in subdivisions (d) and (e).~~

17 ~~(j) The average fine, length of imprisonment, and period of~~
18 ~~license suspension imposed as part of the sentence for each crime~~
19 ~~enumerated in subdivisions (d) and (e).~~

20 (2) ~~The secretary of state and the circuit courts, district~~
21 ~~courts, and local units of government in the state shall cooper-~~
22 ~~ate with the department of state police to provide information~~
23 ~~necessary for the preparation of the report.~~ THE SECRETARY OF
24 STATE SHALL COMPILE A REPORT OF DISPOSITIONS OF CHARGES FOR VIO-
25 LATIONS OF SECTION 625(1), (3), (4), OR (5), OR LOCAL ORDINANCES
26 SUBSTANTIALLY CORRESPONDING TO SECTION 625(1) OR (3) BY EACH
27 JUDGE FOR INCLUSION IN THE ANNUAL REPORT. THE REPORT COMPILED BY

1 THE SECRETARY OF STATE SHALL INCLUDE INFORMATION REGARDING ALL OF
2 THE FOLLOWING:

3 (A) THE NUMBER OF DISMISSALS GRANTED.

4 (B) THE NUMBER OF CONVICTIONS ENTERED.

5 (C) THE NUMBER OF ACQUITTALS ENTERED.

6 (D) THE NUMBER OF LICENSES SUSPENDED, REVOKED, OR
7 RESTRICTED.

8 (E) THE AVERAGE LENGTH OF IMPRISONMENT IMPOSED.

9 (F) THE AVERAGE LENGTH OF COMMUNITY SERVICE IMPOSED IN LIEU
10 OF IMPRISONMENT.

11 (G) THE AVERAGE FINE IMPOSED.

12 (3) ~~A copy of the report required under this section shall~~
13 ~~be submitted to the governor, to the secretary of the senate, and~~
14 ~~to the clerk of the house of representatives on June 1 of each~~
15 ~~year.~~ THE SECRETARY OF STATE SHALL ENTER INTO A CONTRACT WITH
16 THE UNIVERSITY OF MICHIGAN TRANSPORTATION RESEARCH INSTITUTE, IN
17 WHICH THE UNIVERSITY OF MICHIGAN TRANSPORTATION RESEARCH INSTI-
18 TUTE SHALL EVALUATE THE EFFECT AND IMPACT OF THE 1991 LEGISLATION
19 ADDRESSING DRUNK AND IMPAIRED DRIVING IN THIS STATE AND REPORT
20 ITS FINDINGS TO THE GOVERNOR AND THE LEGISLATURE NOT LATER THAN
21 OCTOBER 1, 1994.

22 Sec. 727. ~~When~~ IF a person is arrested without a warrant
23 in any of the following cases, the arrested person shall, without
24 unreasonable delay, be taken before ~~a~~ THE magistrate who is
25 nearest or most accessible within the judicial district as pro-
26 vided in section 13 of chapter IV of the code of criminal
27 procedure, Act No. 175 of the Public Acts of 1927, being section

1 764.13 of the Michigan Compiled Laws, or, if a minor, ~~taken~~
2 before the probate court within the county in which the offense
3 charged is alleged to have been committed:

4 (A) ~~(1) When~~ IF the person is arrested upon a charge of
5 negligent homicide.

6 (B) ~~(2) When~~ IF the person is arrested under section ~~625-~~
7 625(1), (3), (4), OR (5), or an ordinance substantially corre-
8 sponding to ~~that~~ section 625(1) OR (3).

9 (C) ~~(3) When~~ IF a person is arrested under section 626 or
10 an ordinance substantially corresponding to that section. If
11 under the existing circumstances it does not appear that releas-
12 ing the person pending the issuance of a warrant will constitute
13 a public menace, the arresting officer may proceed ~~in such~~
14 ~~cases~~ as provided by section 728.

15 (D) ~~(4) When~~ IF a person arrested does not have in his or
16 her immediate possession a valid operator's or chauffeur's
17 license or the receipt described in section 311a. If the arrest-
18 ing officer otherwise satisfactorily determines the identity of
19 the person and the practicability of subsequent apprehension in
20 the event of the person's failure to voluntarily appear before a
21 designated magistrate or probate court as directed, the officer
22 may release the person from custody with instructions to appear
23 in court, given in the form of a citation as prescribed by
24 section 728.

25 Sec. 732. (1) Each municipal judge and each clerk of a
26 court of record shall keep a full record of every case in which a
27 person is charged with or cited for a violation of this act or of

1 a law corresponding to this act regulating the operation of
2 vehicles on highways.

3 (2) Within 14 days after the conviction or forfeiture of
4 bail of a person, or entry of a civil infraction determination,
5 default judgment, or probate court order of disposition for a
6 child found to be within the provisions of chapter XIIA of Act
7 No. 288 of the Public Acts of 1939, being sections 712A.1 to
8 712A.28 of the Michigan Compiled Laws, upon a charge of, or
9 citation for, violating this act or a local ordinance correspond-
10 ing to this act regulating the operation of vehicles on highways,
11 AND, FOR EACH CASE CHARGING A VIOLATION OF SECTION 625(1), (3),
12 (4), OR (5), OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO
13 SECTION 625(1) OR (3) IN WHICH THE CHARGE IS DISMISSED OR THE
14 DEFENDANT IS ACQUITTED, except as provided in subsection ~~-(+2)-~~
15 (15), the municipal judge or clerk of the court of record shall
16 prepare and immediately forward to the secretary of state an
17 abstract of the record of the court for the case. The abstract
18 shall be certified by signature, stamp, or facsimile signature by
19 the person required to prepare the abstract to be true and
20 correct. If a city or village department, bureau, or person is
21 authorized to accept a payment of money as a settlement for a
22 violation of a local ordinance corresponding to this act, the
23 city or village department, bureau, or person shall send a full
24 report of each case in which a person pays any amount of money to
25 the city or village department, bureau, or person to the secre-
26 tary of state upon a form prescribed by the secretary of state.

1 (3) The abstract or report required under this section shall
2 be made upon a form furnished by the secretary of state and shall
3 include the name, address, and date of birth of the person
4 charged or cited; the number of the person's operator's or
5 chauffeur's license, if any; the date and nature of the viola-
6 tion; the type of vehicle driven at the time of the violation and
7 if the vehicle is a commercial motor vehicle, that vehicle's
8 group designation and indorsement classification; the date of the
9 conviction, finding, forfeiture, judgment, or determination;
10 whether bail was forfeited; any license revocation, restriction,
11 suspension, or denial ordered by the court pursuant to this act;
12 and other information considered necessary to the secretary of
13 state.

14 (4) The clerk of the court also shall forward an abstract of
15 the record of the court to the secretary of state upon the con-
16 viction of a person or entry of a probate court order of disposi-
17 tion for a child found to be within the provisions of chapter
18 XIIIA of Act No. 288 of the Public Acts of 1939, being sections
19 712A.1 to 712A.28 of the Michigan Compiled Laws, involving a vio-
20 lation of section 324, 413, 414, or 479a of the Michigan penal
21 code, Act No. 328 of the Public Acts of 1931, being sections
22 750.324, 750.413, 750.414, and 750.479a of the Michigan Compiled
23 Laws; a violation of section 1 of Act No. 214 of the Public Acts
24 of 1931, being section 752.191 of the Michigan Compiled Laws; or
25 an attempt to commit any of these offenses.

26 (5) As used in subsections (6) to (8), "felony in which a
27 motor vehicle was used" means a felony during the commission of

1 which the person operated a motor vehicle and while operating the
2 vehicle presented real or potential harm to persons or property
3 and 1 or more of the following circumstances existed:

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

5 (b) The vehicle was used to transport a victim of the
6 felony.

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

8 (d) The vehicle was necessary for the commission of the
9 felony.

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

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

22 (7) If a child is accused of an act the nature of which con-
23 stitutes a felony in which a motor vehicle was used, other than a
24 felony specified in subsection (4) or section 319(1)(a) to (f),
25 the prosecuting attorney or juvenile court shall include on the
26 petition filed in the probate court:

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

9 (8) If the judge or juvenile court referee determines as
10 part of the sentence or disposition that the felony for which the
11 defendant was convicted or adjudicated and with respect to which
12 notice was given pursuant to subsection (6) or (7) is a felony in
13 which a motor vehicle was used, the clerk of the court shall for-
14 ward an abstract of the court record of that conviction or adju-
15 dication to the secretary of state.

16 (9) As used in subsections (10) and (11), "Felony in which a
17 commercial motor vehicle was used" means a felony during the com-
18 mission of which the person operated a commercial motor vehicle
19 and while operating the vehicle 1 or more of the following cir-
20 cumstances existed:

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

22 (b) The vehicle was used to transport a victim of the
23 felony.

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

25 (d) The vehicle was necessary for the commission of the
26 felony.

1 (10) If a person is charged with a felony in which a
2 commercial motor vehicle was used and for which a vehicle group
3 designation on a license is subject to suspension under section
4 319b(1)(c)(iii), (d), or (e)(iii) or (v), the prosecuting attor-
5 ney shall include the following statement on the complaint and
6 information filed in district or circuit court:

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

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

21 (12) Every person required to forward abstracts to the sec-
22 retary of state under this section shall certify for the period
23 from January 1 through June 30 and for the period from July 1
24 through December 31 that all abstracts required to be forwarded
25 during the period have been forwarded. The certification shall
26 be filed with the secretary of state not later than 28 days after
27 the end of the period covered by the certification. The

1 certification shall be made upon a form furnished by the
2 secretary of state and shall include all of the following:

3 (a) The name and title of the person required to forward
4 abstracts.

5 (b) The court for which the certification is filed.

6 (c) The time period covered by the certification.

7 (d) The following statement:

8 "I certify that all abstracts required by section 732 of the
9 Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period
10 _____ through _____ have been forwarded to the secre-
11 tary of state."

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

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

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

19 (14) Except as provided in subsection ~~+(12)~~ (15), the sec-
20 retary of state shall keep all abstracts received under this sec-
21 tion at the secretary of state's main office and the abstracts
22 shall be open for public inspection during the office's usual
23 business hours. Each abstract shall be entered upon the master
24 driving record of the person to whom it pertains.

25 (15) The court shall not submit, and the secretary of state
26 shall discard and not enter on the master driving record, an
27 abstract for a conviction, civil infraction determination, or

1 probate court order of disposition for any of the following
2 offenses:

3 (a) The parking or standing of a vehicle.

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

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

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

11 (e) A violation of section 710e.

12 (16) The secretary of state shall discard and not enter on
13 the master driving record an abstract for a bond forfeiture which
14 occurred outside this state. However, the secretary of state
15 shall retain and enter on the master driving record an abstract
16 of an out-of-state bond forfeiture for an offense which occurred
17 after October 1, 1989 in connection with the operation of a com-
18 mercial motor vehicle.

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

24 (18) If a conviction, civil infraction determination, or
25 probate court order of disposition is reversed upon appeal, the
26 person whose conviction, determination, or order of disposition
27 has been reversed may serve on the secretary of state a certified

1 copy of the order of reversal, and the secretary of state shall
2 enter the order in the proper book or index in connection with
3 the record of the conviction, civil infraction determination, or
4 probate court order of disposition.

5 (19) The secretary of state may permit a city or village
6 department, bureau, person, or court to modify the requirement as
7 to the time and manner of reporting a conviction, civil infrac-
8 tion determination, settlement, or probate court order of dispo-
9 sition to the secretary of state when the modification will
10 increase the economy and efficiency of collecting and utilizing
11 the records. If the permitted abstract of court record reporting
12 a conviction, civil infraction determination, settlement, or pro-
13 bate court order of disposition originates as a part of the writ-
14 ten notice to appear, authorized in section 728(1) or 742(1), the
15 form of the written notice and report shall be as prescribed by
16 the secretary of state.

17 Section 2. This amendatory act shall take effect January 1,
18 1992.

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

22 (a) Senate Bill No. _____ or House Bill No. 4828 (request
23 no. 00989'91 *).

24 (b) Senate Bill No. _____ or House Bill No. _____ (request
25 no. 00991'91 *).

26 (c) Senate Bill No. _____ or House Bill No. _____ (request
27 no. 00992'91 *).