

Act No. 59
Public Acts of 1996
Approved by the Governor
February 25, 1996
Filed with the Secretary of State
February 26, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Rep. Byl

ENROLLED HOUSE BILL No. 5310

AN ACT to amend sections 217, 226a, and 625h 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 certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles 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 and local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," section 217 as amended by Act No. 300 of the Public Acts of 1993, section 226a as amended by Act No. 183 of the Public Acts of 1994, and section 625h as amended by Act No. 450 of the Public Acts of 1994, being sections 257.217, 257.226a, and 257.625h of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 217, 226a, and 625h of Act No. 300 of the Public Acts of 1949, section 217 as amended by Act No. 300 of the Public Acts of 1993, section 226a as amended by Act No. 183 of the Public Acts of 1994, and section 625h as amended by Act No. 450 of the Public Acts of 1994, being sections 257.217, 257.226a, and 257.625h of the Michigan Compiled Laws, are amended to read as follows:

Sec. 217. (1) An owner of a vehicle subject to registration under this act shall apply to the secretary of state, upon an appropriate form furnished by the secretary of state, for the registration of the vehicle and issuance of a certificate of title for the vehicle. Effective January 1, 1994, a vehicle brought into this state from another state or jurisdiction that has a rebuilt, salvage, scrap, or comparable certificate of title issued by that other state or jurisdiction shall be issued a rebuilt, salvage, or scrap certificate of title by the secretary of state. The application shall be accompanied by the

required fee. An application for a certificate of title shall bear the signature of the owner written with pen and ink. The application shall contain all of the following:

(a) The name, bona fide residence, and mailing address of the owner or business address of a firm, association, or corporation.

(b) A description of the vehicle including the make or name, style of body, and model year; if the vehicle is a motor vehicle, the number of miles, not including the tenths of a mile, registered on the vehicle's odometer at the time of transfer; whether the vehicle is to be or has been used as a taxi or police vehicle, or by a political subdivision of this state; whether the vehicle has previously been issued a salvage or rebuilt certificate of title from this state or a comparable certificate of title from any other state or jurisdiction; vehicle identification number; and the vehicle's weight fully equipped, if a passenger vehicle registered pursuant to section 801(1)(a), and, if a trailer, coach or pickup camper, in addition to the weight the manufacturer's serial number, or in the absence of the serial number, a number assigned by the secretary of state. A number assigned by the secretary of state shall be permanently placed on the trailer coach or pickup camper in the manner and place designated by the secretary of state.

(c) A statement of the applicant's title and the names and addresses of the holders of security interests in the vehicle and in an accessory to the vehicle, in the order of their priority.

(d) Further information that the secretary of state reasonably requires to enable the secretary of state to determine whether the vehicle is lawfully entitled to registration and the owner entitled to a certificate of title. If the secretary of state is not satisfied as to the ownership of a late model vehicle or other vehicle having a value over \$2,500.00, before registering the vehicle and issuing a certificate of title, the secretary of state may require the applicant to file a properly executed surety bond in a form prescribed by the secretary of state and executed by the applicant and a company authorized to conduct a surety business in this state. The bond shall be in an amount equal to twice the value of the vehicle as determined by the secretary of state and shall be conditioned to indemnify or reimburse the secretary of state, any prior owner, and any subsequent purchaser of the vehicle and their successors in interest against any expense, loss, or damage, including reasonable attorney's fees, by reason of the issuance of a certificate of title to the vehicle or on account of any defect in the right, title, or interest of the applicant in the vehicle. An interested person has a right of action to recover on the bond for a breach of the conditions of the bond, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of 3 years, or before 3 years if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the secretary of state, unless the secretary of state has received notification of the pendency of an action to recover on the bond. If the secretary of state is not satisfied as to the ownership of a vehicle that is not a late model vehicle and whose value does not exceed \$2,500.00, the secretary of state shall require the applicant to certify that the applicant is the owner of the vehicle and entitled to register and title the vehicle.

(e) Except as provided in subdivision (f), an application for a commercial vehicle shall also have attached a scale weight receipt of the motor vehicle fully equipped as of the time the application is made. A scale weight receipt may not be necessary if there is presented with the application a registration receipt of the previous year that shows on its face the empty weight of the motor vehicle as registered with the secretary of state that is accompanied by a statement of the applicant that there has not been structural change in the motor vehicle which has increased the empty weight and that the previous registered weight is the true weight.

(f) An application for registration of a vehicle on the basis of elected gross weight shall include a declaration by the applicant specifying the elected gross weight for which application is being made.

(g) If the application is for a certificate of title of a motor vehicle registered pursuant to section 801(1)(q), the application shall include the manufacturer's suggested base list price for the model year of the vehicle. Annually, the secretary of state shall publish a list of the manufacturer's suggested base list price for each vehicle being manufactured. Once a base list price is published by the secretary of state for a model year for a vehicle, the base list price shall not be affected by subsequent increases in the manufacturer's suggested base list price but shall remain the same throughout the model year unless changed in the annual list published by the secretary of state. If the secretary of state's list has not been published for that vehicle by the time of the application for registration, the base list price shall be the manufacturer's suggested retail price as shown on the label required to be affixed to the vehicle under section 3 of the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1232. If the manufacturer's suggested retail price is unavailable, the application shall list the purchase price of the vehicle as defined in section 801(4).

(2) A dealer selling or exchanging vehicles required to be titled, within 15 days after delivering a vehicle to the purchaser, and a person engaged in the sale of vessels required to be numbered by part 801 (marine safety) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.80101 to 324.80199 of the Michigan Compiled Laws, within 15 days after delivering a boat trailer weighing less than 2,500 pounds to the purchaser, shall apply to the secretary of state for a new title, if required, and transfer or secure registration plates and secure a certificate of registration for the vehicle or boat trailer, in the name of the purchaser. The dealer's license may be suspended or revoked as provided in section 249 for failure to apply for a title when required or for failure to transfer or secure registration plates and certificate of registration within the 15 days required by this section.

If the dealer or person fails to apply for a title when required, and to transfer or secure registration plates and secure a certificate of registration and pay the required fees within 15 days of delivery of the vehicle or boat trailer, a title and registration for the vehicle or boat trailer may subsequently be acquired only upon the payment of a transfer fee of \$15.00 in addition to the fees provided for in section 806. The purchaser of the vehicle or boat trailer shall sign the application, including, when applicable, the declaration specifying the maximum elected gross weight, as required by subsection (1)(f), and other necessary papers to enable the dealer or person to secure the title, registration plates, and transfers from the secretary of state.

(3) If a vehicle is delivered to a purchaser who has valid Michigan registration plates that are to be transferred to the vehicle, and an application for title, if required, and registration for the vehicle is not made before delivery of the vehicle to the purchaser, the registration plates shall be affixed to the vehicle immediately, and the dealer shall provide the purchaser with an instrument in writing, on a form prescribed by the secretary of state, which shall serve as a temporary registration for the vehicle for a period of 15 days from the date the vehicle is delivered.

(4) An application for a certificate of title that indicates the existence of a security interest in the vehicle or in an accessory to the vehicle, if requested by the security interest holder, shall be accompanied by a copy of the security agreement which need not be signed. The request may be made of the seller on an annual basis. The secretary of state shall indicate on the copy the date and place of filing of the application and return the copy to the person submitting the application who shall forward it to the holder of the security interest named in the application.

(5) If the seller does not prepare the credit information, contract note, and mortgage, and the holder, finance company, credit union, or banking institution requires the installment seller to record the lien on the title, the holder, finance company, credit union, or banking institution shall pay the seller a service fee of not more than \$10.00. The service fee shall be paid from the finance charges and shall not be charged to the buyer in addition to the finance charges. The holder, finance company, credit union, or banking institution shall issue its check or bank draft for the principal amount financed, payable jointly to the buyer and seller, and there shall be imprinted on the back side of the check or bank draft the following:

"Under Michigan law, the seller must record a first lien in favor of (name of lender) _____ on the vehicle with vehicle identification number _____ and title the vehicle only in the name(s) shown on the reverse side." On the front of the sales check or draft, the holder, finance company, credit union, or banking institution shall note the name(s) of the prospective owner(s). Failure of the holder, finance company, credit union, or banking institution to comply with these requirements frees the seller from any obligation to record the lien or from any liability that may arise as a result of the failure to record the lien. A service fee shall not be charged to the buyer.

(6) In the absence of actual malice proved independently and not inferred from lack of probable cause, a person who in any manner causes a prosecution for larceny of a motor vehicle; for embezzlement of a motor vehicle; for any crime an element of which is the taking of a motor vehicle without authority; or for buying, receiving, possessing, or aiding in the concealment of a stolen, embezzled, or converted motor vehicle knowing the motor vehicle has been stolen, embezzled, or converted, is not liable for damages in a civil action for causing the prosecution. This subsection shall not be construed to relieve a person from proving any other element necessary to sustain his or her cause of action.

Sec. 226a. (1) Temporary registration plates or markers may be issued to licensed dealers in vehicles and to persons engaged in the sale of vessels required to be numbered by part 801 (marine safety) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.80101 to 324.80199 of the Michigan Compiled Laws, upon application accompanied by the proper fee, for use by purchasers of vehicles, for not to exceed 15 days pending receipt of regular registration plates from the dealer or person.

Only 1 temporary plate or marker may be issued to a purchaser of a vehicle. The temporary registration plates or markers shall be made of such material and design as the secretary of state shall determine.

(2) A temporary registration plate or marker shall show in ink the date of issue, a description of the vehicle for which issued, and such other information as the secretary of state may require. A dealer or person shall immediately notify the secretary of state of each temporary registration plate or marker issued by the dealer or person, on a form prescribed by the secretary of state. Upon the attachment of the regular plate to a vehicle for which a temporary registration plate or marker has been issued, the temporary plate shall be destroyed.

(3) All temporary registration plates or markers shall be serially numbered and upon issuance the number shall be noted on the statement of vehicle sale form or in the case of a boat trailer on a form prescribed by the secretary of state.

(4) A dealer or person, upon demand, shall immediately surrender any temporary registration plates or markers in his or her possession if the secretary of state finds, after investigation, that the dealer or person has violated this section, and the dealer or person shall immediately forfeit any right to the temporary registration plates or markers.

(5) Registration plates may be issued upon application and payment of the proper fee to an individual, partnership, corporation, or association who in the ordinary course of business has occasion to legally repossess a vehicle in which a security interest is held. A registration plate issued pursuant to this subsection shall be used to move and dispose of a vehicle.

(6) Registration plates may be issued upon application and payment of the proper fee to an individual, partnership, corporation, or association who in the ordinary course of business has occasion to legally pick up or deliver a vehicle not required to be titled under this act, or to repair or service a vehicle, or to persons defined as dealers under part 801 of Act No. 451 of the Public Acts of 1994, for the purpose of delivering a vessel or trailer to a customer or to and from a boat show or exposition. A registration plate issued under this subsection shall be used to move such a vehicle.

(7) Registration plates may be issued upon application and payment of the proper fee to an individual, partnership, corporation, or association who in the ordinary course of business operates an auto auction, and who in the ordinary course of business has occasion to legally pick up a vehicle which will be offered for sale at the auction, or deliver a vehicle which has been offered for sale at the auction. Such registration plates shall be used only to move vehicles as provided in this subsection. Auto auctions that make application for such registration plates shall furnish a surety bond as may be required by the secretary of state.

Sec. 625h. (1) The drunk driving prevention equipment and training fund is created as a separate fund in the state treasury. Money in the fund shall be expended only as provided in subsection (2). The state treasurer shall credit to the fund all money received for that purpose under section 320e, and as otherwise provided by law. The state treasurer shall invest money in the fund in the same manner as surplus funds are invested under section 143 of Act No. 105 of the Public Acts of 1855, being section 21.143 of the Michigan Compiled Laws. Earnings from the fund shall be credited to the fund. Money in the fund at the end of the fiscal year shall remain in the fund, and shall not revert to the general fund.

(2) The department of state police shall administer the fund. Money in the fund shall be used only to administer the fund, to purchase and maintain breath alcohol testing equipment, and to provide training to law enforcement personnel of this state in the use of that breath alcohol testing equipment.

(3) The department of treasury shall, before November 1 of each year, notify the department of state police of the balance in the fund at the close of the preceding fiscal year.

(4) The department of state police shall promulgate rules to implement subsection (2).

(5) The drunk driving caseload assistance fund is created as a separate fund in the state treasury. The purpose of the fund is to promote the timely disposition of cases in which the defendant is charged with a violation of section 625(1) or (3) of this act, section 82127(1) or (3) of part 821 (snowmobiles) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.82127 of the Michigan Compiled Laws, or section 80176(1) or (3) of part 801 (marine safety) of Act No. 451 of the Public Acts of 1994, being section 324.80176 of the Michigan Compiled Laws, or a local ordinance substantially corresponding to section 625(1) or (3) of this act, section 82127(1) or (3) of part 821 of Act No. 451 of the Public Acts of 1994, or section 80176(1) or (3) of part 801 of Act No. 451 of the Public Acts of 1994. Money in the fund shall be expended only as provided in subsection (7).

(6) The state treasurer shall credit the drunk driving caseload assistance fund with deposits of proceeds from the collection of revenue from license reinstatement fees as provided for in section 320e, and all income from investment credited to the fund by the state treasurer. The state treasurer may invest money contained in the drunk driving caseload assistance fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The state treasurer shall credit to the fund all income earned as a result of an investment. Money in the fund at the end of the fiscal year shall remain in the fund and shall not revert to the general fund.

(7) The state court administrator, at the direction of the supreme court and upon confirmation of the amount by the state treasurer, shall distribute from the drunk driving caseload assistance fund the total amount available in a fiscal year to each district of the district court and each municipal court as provided in this section. The state court administrator, after reimbursement of costs as provided in this subsection, shall distribute the balance of the drunk driving caseload assistance fund annually to each district of the district court and each municipal court in an amount determined by multiplying the amount available for distribution by a fraction, the numerator of which is the number of cases in which the defendant was charged with a violation of section 625(1) or (3) of this act, section 82127(1) or (3) of part 821 of Act No. 451 of the Public Acts of 1994, or section 80176(1) or (3) of part 801 of Act No. 451 of the Public Acts of 1994 or a local ordinance substantially corresponding to section 625(1) or (3) of this act, section 82127(1) or (3) of part 821 of Act No. 451 of the Public Acts of 1994, or section 80176(1) or (3) of part 801 of Act No. 451 of the Public Acts of 1994 in the prior calendar year in that district of the district court or that municipal court as certified by the state court administrator and the denominator of which is the total number of cases in all districts of the district court and all municipal courts in which the defendant was charged with a violation of section 625(1) or (3) of this act, section 82127(1) or (3) of part 821 of Act No. 451 of the Public Acts of 1994, or section 80176(1) or (3) of part 801 of Act No. 451 of the Public Acts of 1994 or a local ordinance substantially corresponding to section 625(1) or (3) of this act, section 82127(1) or (3) of part 821 of Act No. 451 of the Public Acts of 1994, or section 80176(1) or (3) of part 801 of Act No. 451 of the Public Acts of 1994 in the calendar year. The state court administrative office shall be reimbursed annually from the drunk driving caseload assistance fund for all reasonable costs associated with the administration of this section, including judicial and staff training, on-site management assistance, and software development and conversion.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.