

**SUBSTITUTE FOR
SENATE BILL NO. 1026**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 307, 315, 319, and 323 (MCL 257.307, 257.315, 257.319, and 257.323), section 307 as amended by 1996 PA 205, section 319 as amended by 1996 PA 587, and section 323 as amended by 1994 PA 449, and by adding section 50a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 50A. "RESIDENCE ADDRESS" MEANS THE PLACE WHICH IS THE
2 SETTLED OR PERMANENT HOME OR DOMICILE AT WHICH A PERSON RESIDES
3 AS DEFINED IN SECTION 11 OF THE MICHIGAN ELECTION LAW, 1954 PA
4 116, MCL 168.11. THIS DEFINITION APPLIES TO THIS ACT ONLY.

5 Sec. 307. (1) An application for an operator's or
6 chauffeur's license shall be made in a manner prescribed by the
7 secretary of state and shall contain all of the following:

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1 (a) For an operator's or chauffeur's license, full name,
2 date of birth, ~~address of~~ residence ADDRESS, height, sex, eye
3 color, and signature of the applicant, and other information
4 required or permitted on the license pursuant to this chapter.

5 (b) For an operator's or chauffeur's license with a vehicle
6 group designation or indorsement, full name, social security
7 number, date of birth, ~~address of~~ residence ADDRESS, height,
8 sex, and signature of the applicant, and other information
9 required or permitted on the license pursuant to this chapter.

10 (C) A STATEMENT THAT IF THE PERSON'S RESIDENCE ADDRESS DIF-
11 FERS FROM THE PERSON'S RESIDENCE ADDRESS ON THE QUALIFIED VOTER
12 FILE CREATED UNDER SECTION 509^o OF THE MICHIGAN ELECTION LAW,
13 1954 PA 116, MCL 168.509^o, THE SECRETARY OF STATE WILL CHANGE THE
14 PERSON'S RESIDENCE ADDRESS ON THE QUALIFIED VOTER FILE.

15 (D) ~~(c)~~ For an operator's or chauffeur's license with a
16 vehicle group designation or indorsement, the following certifi-
17 cations made by the applicant:

18 (i) That the applicant meets the applicable federal physical
19 driver qualification requirements pursuant to 49 C.F.R. part 391
20 if the applicant operates or intends to operate in interstate
21 commerce or meets the applicable physical qualifications pursuant
22 to the rules promulgated by the department of state police under
23 the motor carrier safety act of 1963, ~~Act No. 181 of the Public~~
24 ~~Acts of 1963, being sections 480.11 to 480.21 of the Michigan~~
25 ~~Compiled Laws~~ 1963 PA 181, MCL 480.11 TO 480.22, if the appli-
26 cant operates or intends to operate in intrastate commerce.

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1 (ii) That the vehicle in which the applicant will take the
2 driving skills tests is representative of the type of vehicle the
3 applicant operates or intends to operate.

4 (iii) That the applicant has not been convicted of an
5 offense as described in section 312f or 319b.

6 (iv) That the applicant does not have a driver's license
7 from more than 1 state.

8 (E) ~~(d)~~ For an operator's or chauffeur's license with a
9 vehicle group designation or indorsement and for which the appli-
10 cant claims a waiver of the driving test as provided in
11 section 312f, the following additional certifications made by the
12 applicant concerning the 2-year period immediately before
13 application:

14 (i) That the applicant has not had more than 1 license.

15 (ii) That the applicant has not had any license suspended,
16 revoked, or canceled.

17 (iii) That the applicant has not been convicted of any
18 offense described in section 319b while operating a motor
19 vehicle.

20 (iv) That the applicant has not been convicted of a moving
21 violation under state or local law relating to motor vehicle
22 traffic control arising in connection with a traffic accident.

23 (v) That the applicant is regularly employed in a job
24 requiring the operation of a commercial motor vehicle.

25 (vi) That the applicant qualifies under either of the
26 following:

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1 (A) Has passed a behind-the-wheel driving test given by a
2 state with a commercial motor vehicle driver licensing and
3 testing system and taken in a representative vehicle for that
4 applicant's driver's license vehicle group designation.

5 (B) Has operated, for at least 2 years immediately preceding
6 application, a vehicle representative of the commercial motor
7 vehicle group or passenger vehicle for which he or she is
8 applying. Evidence shall be provided by the applicant's employer
9 or by the applicant if self-employed.

10 (2) An applicant for an operator's or chauffeur's license
11 may have his or her image captured or reproduced at the time the
12 application for the license is made. The secretary of state
13 shall acquire by purchase or lease the equipment for capturing
14 the images and may furnish the equipment to a local unit autho-
15 rized by the secretary of state to license drivers. The secre-
16 tary of state shall acquire equipment purchased or leased pursu-
17 ant to this section under standard purchasing procedures of the
18 department of management and budget based on standards and speci-
19 fications established by the secretary of state. The secretary
20 of state shall not purchase or lease equipment until an appropri-
21 ation for the equipment has been made by the legislature. An
22 image captured pursuant to this section shall appear on the
23 applicant's operator's or chauffeur's license. The secretary of
24 state may retain and use a person's image described in this sub-
25 section only for programs administered by the secretary of
26 state. Except as provided in this subsection, the secretary of
27 state shall not use a person's image unless written permission

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1 for that purpose is granted by the person to the secretary of
2 state or specific enabling legislation permitting the use is
3 enacted into law. A law enforcement agency of this state shall
4 have access to any information retained by the secretary of state
5 under this subsection. The information may be utilized for any
6 law enforcement purpose unless otherwise prohibited by law.

7 (3) An application shall contain a signature and certifica-
8 tion by the applicant and shall be accompanied by the proper
9 fee. The examiner shall collect the application fee and shall
10 forward the fee to the secretary of state with the application.
11 The secretary of state shall refund the application fee to the
12 applicant if the license applied for is denied, but shall not
13 refund the fee to an applicant who fails to complete the examina-
14 tion requirements of the secretary of state within 90 days after
15 the date of application for a license. Until January 1, 2002, a
16 service fee of \$1.00 shall be added to each fee collected for an
17 original, renewal, duplicate, or corrected operator's or
18 chauffeur's license. The service fee received and collected
19 under this subsection shall be deposited in the state treasury to
20 the credit of the general fund. The service fee shall be used to
21 defray the expenses of the secretary of state. Appropriations
22 from the Michigan transportation fund shall not be used to com-
23 pensate the secretary of state for costs incurred and services
24 performed under this section.

25 (4) If an application is received from a person previously
26 licensed in another jurisdiction, the secretary of state shall
27 request a copy of the applicant's driving record and other

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1 available information from the other jurisdiction. When
2 received, the driving record and other available information from
3 the other jurisdiction becomes a part of the driver's record in
4 this state with the same force and effect as if it had been
5 entered on the driver's record in this state in the original
6 instance. If the application is for an original, renewal, or
7 change of a vehicle group designation or indorsement, the secre-
8 tary of state shall also check the applicant's driving record
9 with the national drivers register and the United States depart-
10 ment of transportation before issuance of that group designation
11 or indorsement.

12 (5) Except for a vehicle group designation or indorsement,
13 the secretary of state may issue a renewal operator's or
14 chauffeur's license for 1 additional 4-year period by mail or by
15 other methods prescribed by the secretary of state. The secre-
16 tary of state shall issue a renewal license only in person when
17 the licensee has a driving record with a conviction or civil
18 infraction determination obtained in the 48 months preceding
19 renewal. However, the secretary of state shall not refuse to
20 issue a renewal license by mail or by other method because of a
21 conviction or civil infraction determination for which fines and
22 costs were waived pursuant to section 901a or section 907. If a
23 license is renewed by mail or by other method, the secretary of
24 state shall issue evidence of renewal to indicate the date the
25 license expires in the future.

26 (6) Upon request, the secretary of state shall provide an
27 information manual to an applicant explaining how to obtain a

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1 vehicle group designation or indorsement. The manual shall
2 contain the information required pursuant to 49 C.F.R. part 383.

3 (7) IF THE PERSON'S RESIDENCE ADDRESS ON THE APPLICATION FOR
4 AN OPERATOR'S OR CHAUFFEUR'S LICENSE DIFFERS FROM THE PERSON'S
5 RESIDENCE ADDRESS ON THE QUALIFIED VOTER FILE CREATED UNDER SEC-
6 TION 509^o OF THE MICHIGAN ELECTION LAW, 1954 PA 116, MCL
7 168.509^o, THE SECRETARY OF STATE SHALL CHANGE THE PERSON'S RESI-
8 DENCE ADDRESS ON THE QUALIFIED VOTER FILE.

9 Sec. 315. (1) ~~(a) Any~~ AN operator or chauffeur ~~,~~ who
10 ~~shall change~~ CHANGES his OR HER residence ~~previous to~~ BEFORE
11 the expiration of a license granted under this chapter shall
12 immediately ~~return such license to the local examining board or~~
13 ~~the department, whose duty it shall be to write the new address~~
14 ~~on the reverse side of the license and the date of change~~ NOTIFY
15 THE SECRETARY OF STATE OF HIS OR HER NEW RESIDENCE ADDRESS. A
16 CHANGE OF ADDRESS NOTIFICATION SHALL BE IN A MANNER PRESCRIBED BY
17 THE SECRETARY OF STATE AND MAY INCLUDE NOTIFICATION BY PERSONALLY
18 APPEARING AT A BRANCH OFFICE OF THE SECRETARY OF STATE OR OTHER
19 LOCATION DESIGNATED BY THE SECRETARY OF STATE, OR A NOTIFICATION
20 BY MAIL, TELEPHONE, ELECTRONICALLY, BY SUBMITTING A VOTER REGIS-
21 TRATION APPLICATION, OR BY ANY OTHER MEANS PRESCRIBED BY THE SEC-
22 RETARY OF STATE.

23 (2) UPON RECEIVING A CHANGE OF ADDRESS NOTIFICATION, THE
24 SECRETARY OF STATE SHALL CHANGE THE PERSON'S DRIVER LICENSE
25 RECORD TO INDICATE THE NEW RESIDENCE ADDRESS. THE SECRETARY OF
26 STATE SHALL CHANGES THE PERSON'S RESIDENCE ADDRESS ON THE
27 QUALIFIED VOTER FILE CREATED UNDER SECTION 509^o OF THE MICHIGAN

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1 ELECTION LAW, 1954 PA 116, MCL 168.509^o, TO INDICATE THE PERSON'S
2 NEW RESIDENCE ADDRESS IF THE CHANGE OF ADDRESS NOTIFICATION
3 INFORMS THE PERSON THAT THE NEW RESIDENCE ADDRESS WILL CHANGE THE
4 PERSON'S RESIDENCE ADDRESS ON THE QUALIFIED VOTER FILE AND CON-
5 TAINS THE PERSON'S SIGNATURE. THE SECRETARY OF STATE SHALL PRO-
6 VIDE THE PERSON WITH A NEW LICENSE OR A LABEL OR SOME OTHER MECH-
7 ANISM CONTAINING THE NEW RESIDENCE ADDRESS. UPON RECEIPT OF THE
8 LABEL OR OTHER MECHANISM, THE PERSON SHALL AFFIX THE LABEL OR
9 MECHANISM TO HIS OR HER OPERATOR'S OR CHAUFFEUR'S LICENSE AS PRE-
10 SCRIBED BY THE SECRETARY OF STATE. IF THE SECRETARY OF STATE
11 FURNISHED THE PERSON WITH A NEW LICENSE, THE PERSON SHALL DESTROY
12 HIS OR HER OLD LICENSE AND REPLACE IT WITH THE NEW LICENSE.

13 (3) ~~(b) Failure to have such change of address recorded as~~
14 ~~herein provided may be cause for revocation or suspension of same~~
15 ~~immediately if there is no response to a notice mailed to his~~
16 ~~last known address.~~ IF A PERSON FAILS TO REPORT A CHANGE OF HIS
17 OR HER RESIDENCE ADDRESS AS REQUIRED UNDER THIS SECTION AND SUB-
18 SEQUENTLY THERE IS NO RESPONSE TO A NOTICE MAILED TO THE RESI-
19 DENCE ADDRESS SHOWN BY THE RECORD OF THE SECRETARY OF STATE, THE
20 SECRETARY OF STATE MAY IMMEDIATELY SUSPEND OR REVOKE HIS OR HER
21 LICENSE.

22 (4) A PERSON SHALL NOT REPORT A CHANGE OF ADDRESS TO THE
SECRETARY OF STATE FOR HIMSELF OR HERSELF THAT IS NOT HIS OR HER
RESIDENCE ADDRESS. A PERSON SHALL NOT REPORT A CHANGE OF ADDRESS TO
23 THE
SECRETARY OF STATE FOR ANOTHER PERSON WITHOUT THE CONSENT OF THE
24 OTHER PERSON. A PERSON WHO IS CONVICTED OF A VIOLATION OF THIS
25 SUBSECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT
26 FOR NOT MORE THAN 90 DAYS OR A FINE OF \$100.00, OR BOTH. UPON
27 RECEIVING THE ABSTRACT OF A CONVICTION UNDER THIS SUBSECTION, THE

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1 SECRETARY OF STATE SHALL SUSPEND THE PERSON'S OPERATOR'S OR
2 CHAUFFEUR'S LICENSE FOR 6 MONTHS. THE SECRETARY OF STATE SHALL
3 NOT ISSUE A RESTRICTED LICENSE TO THE PERSON DURING THE
4 SUSPENSION. UPON A SECOND OR SUBSEQUENT CONVICTION UNDER THIS
5 SUBSECTION, A PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRIS-
6 ONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF \$1,000.00, OR BOTH.
7 UPON RECEIVING THE ABSTRACT OF A SECOND OR SUBSEQUENT CONVICTION
8 UNDER THIS SUBSECTION, THE SECRETARY OF STATE SHALL REVOKE THE
9 PERSON'S OPERATOR'S OR CHAUFFEUR'S LICENSE. THE SUSPENSION OR
10 REVOCATION OF AN OPERATOR'S OR CHAUFFEUR'S LICENSE UNDER THIS
11 SUBSECTION IS NOT APPEALABLE UNDER SECTION 323.

12 Sec. 319. (1) The secretary of state shall immediately sus-
13 pend a person's license for not less than 90 days or more than 2
14 years upon receiving a record of the person's conviction for any
15 of the following crimes or attempts to commit any of the follow-
16 ing crimes, whether the conviction is under a law of this state,
17 a local ordinance substantially corresponding to a law of this
18 state, or a law of another state substantially corresponding to a
19 law of this state:

20 (a) Fraudulently altering or forging documents pertaining to
21 motor vehicles, in violation of section 257.

22 (b) Perjury or making a false certification to the secretary
23 of state under any law requiring the registration of a motor
24 vehicle or regulating the operation of a motor vehicle on a
25 highway.

26 (c) A violation of section 413 or 414 of the Michigan penal
27 code, ~~Act No. 328 of the Public Acts of 1931, being sections~~

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1 ~~750.413 and 750.414 of the Michigan Compiled Laws~~ 1931 PA 328,
2 MCL 750.413 AND 750.414, or a violation of section 1 of ~~Act~~
3 ~~No. 214 of the Public Acts of 1931, being section 752.191 of the~~
4 ~~Michigan Compiled Laws~~ 1931 PA 214, MCL 752.191.

5 (d) A conviction for reckless driving in violation of sec-
6 tion 626.

7 (e) Failing to stop and disclose identity at the scene of an
8 accident resulting in death or injury in violation of section 617
9 or 617a.

10 (f) A felony in which a motor vehicle was used. As used in
11 this section, "felony in which a motor vehicle was used" means a
12 felony during the commission of which the person convicted oper-
13 ated a motor vehicle and while operating the vehicle presented
14 real or potential harm to persons or property and 1 or more of
15 the following circumstances existed:

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

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

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

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

22 (2) The secretary of state shall suspend the license of a
23 person convicted of malicious destruction resulting from the
24 operation of a motor vehicle under section 382 of the Michigan
25 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~
26 ~~tion 750.382 of the Michigan Compiled Laws~~ 1931 PA 328, MCL

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1 750.382, for not more than 1 year as ordered by the court as part
2 of the sentence.

3 (3) The secretary of state shall immediately suspend a
4 person's license for the period specified in the abstract of con-
5 viction upon receiving the person's license and abstract of con-
6 viction forwarded to the secretary of state pursuant to section
7 367c of the Michigan penal code, ~~Act No. 328 of the Public Acts~~
8 ~~of 1931, being section 750.367c of the Michigan Compiled Laws~~
9 1931 PA 328, MCL 750.367C.

10 (4) Except as otherwise provided in subsection (9), if a
11 court has not ordered a suspension of a person's license under
12 this act for a violation described in subdivision (a), (b), (c),
13 or (d) for a period equal to or greater than the suspension
14 period prescribed under subdivision (a), (b), (c), or (d) for the
15 violation, the secretary of state shall suspend the license as
16 follows, notwithstanding a court order issued under
17 section 625(1), (3), or (6), section 625b, former section 625(1)
18 or (2), or former section 625b or a local ordinance substantially
19 corresponding to section 625(1), (3), or (6), section 625b,
20 former section 625(1) or (2), or former section 625b:

21 (a) For not less than 90 days or more than 1 year upon
22 receiving a record of the person's conviction for a violation of
23 section 625(3), a local ordinance substantially corresponding to
24 section 625(3), or a law of another state substantially corre-
25 sponding to section 625(3) if the person has no prior convictions
26 within 7 years for a violation of section 625(1), (3), (4), or
27 (5), former section 625(1) or (2), or former section 625b, a

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1 local ordinance substantially corresponding to section 625(1) or
2 (3), former section 625(1) or (2), or former section 625b, or a
3 law of another state substantially corresponding to section
4 625(1), (3), (4), or (5), former section 625(1) or (2), or former
5 section 625b. However, if the person is convicted of a violation
6 of section 625(3), a local ordinance substantially corresponding
7 to section 625(3), or a law of another state substantially corre-
8 sponding to section 625(3) for operating a vehicle when, due to
9 the consumption of a controlled substance or a combination of
10 intoxicating liquor and a controlled substance, the person's
11 ability to operate the vehicle was visibly impaired, the secre-
12 tary of state shall suspend the person's license under this sub-
13 division for not less than 6 months or more than 1 year.

14 (b) For not less than 6 months or more than 2 years upon
15 receiving a record of the person's conviction if the person has
16 the following convictions, whether under the law of this state, a
17 local ordinance substantially corresponding to a law of this
18 state, or a law of another state substantially corresponding to a
19 law of this state:

20 (i) One conviction under section 625(1) or former section
21 625(1) or (2).

22 (ii) Any combination of 2 convictions under section 625(3)
23 or former section 625b within a 7-year period.

24 (iii) One conviction under section 625(1) or former section
25 625(1) or (2) and 1 conviction under section 625(3) or former
26 section 625b within a 7-year period.

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1 (iv) One conviction under section 625(4) or (5) followed by
2 1 conviction under section 625(3) within a 7-year period.

3 (c) For not less than 30 days or more than 90 days upon
4 receiving a record of the person's conviction for a violation of
5 section 625(6), a local ordinance substantially corresponding to
6 section 625(6), or a law of another state substantially corre-
7 sponding to section 625(6) if the person has no prior convictions
8 within 7 years for a violation of section 625(1), (3), (4), (5),
9 or (6), former section 625(1) or (2), or former section 625b, a
10 local ordinance substantially corresponding to section 625(1),
11 (3), or (6), former section 625(1) or (2), or former section
12 625b, or a law of another state substantially corresponding to
13 section 625(1), (3), (4), (5), or (6), former section 625(1) or
14 (2), or former section 625b.

15 (d) For not less than 90 days or more than 1 year upon
16 receiving a record of the person's conviction for a violation of
17 section 625(6), a local ordinance substantially corresponding to
18 section 625(6), or a law of another state substantially corre-
19 sponding to section 625(6) if the person has 1 or more prior con-
20 victions within 7 years for a violation of section 625(1), (3),
21 (4), (5), or (6), former section 625(1) or (2), or former section
22 625b, a local ordinance substantially corresponding to section
23 625(1), (3), or (6), former section 625(1) or (2), or former sec-
24 tion 625b, or a law of another state substantially corresponding
25 to section 625(1), (3), (4), (5), or (6), former section 625(1)
26 or (2), or former section 625b.

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1 (5) Upon receiving a certificate of conviction under section
2 ~~33b(2)~~ 703(2) of the Michigan liquor control ~~act, Act No. 8 of~~
3 ~~the Public Acts of the Extra Session of 1933, being section~~
4 ~~436.33b of the Michigan Compiled Laws~~ CODE OF 1998, 1998 PA 58,
5 MCL 436.1703, or a local ordinance or law of another state sub-
6 stantially corresponding to section ~~33b(2)~~ 703(2) of ~~Act No. 8~~
7 ~~of the Public Acts of the Extra Session of 1933~~ THE MICHIGAN
8 LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL 436.1703, the secre-
9 tary of state shall suspend pursuant to court order the person's
10 operator's or chauffeur's license for 90 days. A suspension
11 under this subsection shall be in addition to any other suspen-
12 sion of the person's license.

13 (6) Upon receiving the record of a person's conviction for a
14 violation of section 602a(2) or (3) of this act or section
15 479a(2) or (3) of ~~Act No. 328 of the Public Acts of 1931, being~~
16 ~~section 750.479a of the Michigan Compiled Laws~~ THE MICHIGAN
17 PENAL CODE, 1931 PA 328, MCL 750.479A, the secretary of state
18 immediately shall suspend the person's license for ~~the~~ A period
19 ~~ordered by the court as part of the sentence or disposition~~ OF
20 1 YEAR.

21 (7) Upon receiving an abstract of conviction for a violation
22 of section ~~33b(1)~~ 703(1) of ~~Act No. 8 of the Public Acts of~~
23 ~~the Extra Session of 1933, being section 436.33b of the Michigan~~
24 ~~Compiled Laws~~ THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA
25 58, MCL 436.1703, or section 624a or 624b or a local ordinance
26 substantially corresponding to those sections, the secretary of
27 state shall suspend the person's operator's or chauffeur's

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1 license for the period of time described in section ~~33b(4)~~
2 703(4) of ~~Act No. 8 of the Public Acts of the Extra Session of~~
3 ~~1933~~ THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL
4 436.1703, or section 624a or 624b notwithstanding any court order
5 to the contrary and, if applicable, issue a restricted license as
6 ordered by the court in the manner provided for in section ~~33b~~
7 703 of ~~Act No. 8 of the Public Acts of the Extra Session of~~
8 ~~1933~~ THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL
9 436.1703, or section 624a or 624b. If the person does not pos-
10 sess an operator's or chauffeur's license, the secretary of state
11 shall deny the person's application for an operator's or
12 chauffeur's license for the applicable suspension period.

13 (8) UPON RECEIVING THE ABSTRACT OF A PERSON'S CONVICTION FOR
14 A VIOLATION OF SECTION 315(4), THE SECRETARY OF STATE IMMEDIATELY
15 SHALL EITHER SUSPEND THE PERSON'S LICENSE FOR 6 MONTHS OR REVOKE
16 THE PERSON'S LICENSE AS REQUIRED BY SECTION 315(4).

17 (9) ~~(8)~~ Except as provided in subsection ~~(10)~~ (11), a
18 suspension under this section shall be imposed notwithstanding a
19 court order issued under section 625(1), (3), (4), (5), or (6) or
20 section 625b or a local ordinance substantially corresponding to
21 section 625(1), (3), or (6) or section 625b.

22 (10) ~~(9)~~ If the secretary of state receives records of
23 more than 1 conviction of a person resulting from the same inci-
24 dent, a suspension shall be imposed only for the violation to
25 which the longest period of suspension applies under this
26 section.

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1 (11) ~~(10)~~ The secretary of state may waive a suspension of
2 a person's license imposed under subsection (4)(a), (b), (c), or
3 (d) if the person submits proof that a court in another state
4 revoked, suspended, or restricted his or her license for a period
5 equal to or greater than the period of a suspension prescribed
6 under subsection (4)(a), (b), (c), or (d) for the violation and
7 that the revocation, suspension, or restriction was served for
8 the violation, or may grant a restricted license.

9 Sec. 323. (1) Except as provided in subsections (5) and
10 (9), a person aggrieved by a final determination of the secretary
11 of state denying the person an operator's or chauffeur's license,
12 a vehicle group designation, or an indorsement on a license or
13 revoking, suspending, or restricting an operator's or chauffeur's
14 license, vehicle group designation, or an indorsement may peti-
15 tion for a review of the determination in the circuit court in
16 the county where the person was arrested if the denial or suspen-
17 sion was imposed pursuant to section 625f or pursuant to the
18 order of a trial court under section 328 or, in all other cases,
19 in the circuit court in the person's county of residence. The
20 person shall file the petition within 63 days after the determi-
21 nation is made except that for good cause shown the court may
22 allow the person to file petition within 182 days after the
23 determination is made. As provided in section 625f, a peace
24 officer aggrieved by a determination of a hearing officer in
25 favor of a person who requested a hearing under section 625f may,
26 with the prosecuting attorney's consent, petition for review of
27 the determination in the circuit court in the county where the

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1 arrest was made. The peace officer shall file the petition
2 within 63 days after the determination is made except that for
3 good cause shown the court may allow the peace officer to file
4 the petition within 182 days after the determination is made.

5 (2) Except as otherwise provided in this section, the cir-
6 cuit court shall enter an order setting the cause for hearing for
7 a day certain not more than 63 days after the order's date. The
8 order, a copy of the petition that includes the person's full
9 name, current address, birth date, and driver's license number,
10 and all supporting affidavits shall be served on the secretary of
11 state's office in Lansing not less than 20 days before the date
12 set for the hearing. If the person is seeking a review of the
13 record prepared pursuant to section 322 or section 625f, the
14 service upon the secretary of state shall be made not less than
15 50 days before the date set for the hearing.

16 (3) Except as otherwise provided in this section, the court
17 may take testimony and examine all the facts and circumstances
18 relating to the denial, suspension, restriction, or revocation of
19 the person's license. The court may affirm, modify, or set aside
20 the restriction, suspension, revocation, or denial except the
21 court shall not order the secretary of state to issue a
22 restricted or unrestricted chauffeur's license that would permit
23 the person to drive a commercial motor vehicle that hauls a haz-
24 ardous material. The court shall duly enter the order and the
25 petitioner shall file a certified copy of the order with the sec-
26 retary of state's office in Lansing within 7 days after entry of
27 the order.

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

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

7 (b) A determination of whether to order a restricted license
8 issued as provided in section 323c.

9 (5) This section does not apply to a denial, revocation,
10 suspension, or restriction imposed pursuant to a suspension
11 ordered under section 321a or to a court order issued as part of
12 the sentence for a conviction under either of the following:

13 (a) Section 625, section 625m, former section 625(1) or (2),
14 or former section 625b or a local ordinance substantially corre-
15 sponding to section 625(1), (2), or (3), section 625m, former
16 section 625(1) or (2), or former section 625b.

17 (b) Part 74 or section 17766a of the public health code,
18 ~~Act No. 368 of the Public Acts of 1978, being sections 333.7401~~
19 ~~to 333.7461 and section 333.17766a of the Michigan Compiled Laws~~
20 1978 PA 368, MCL 333.7401 TO 333.7461 AND 333.17766A, or a local
21 ordinance that prohibits conduct prohibited under part 74 or sec-
22 tion 17766a of ~~Act No. 368 of the Public Acts of 1978~~ THE
23 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401 TO 333.7461 AND
24 333.17766A.

25 (6) In reviewing a determination resulting in a denial or
26 revocation under section 303(1)(d), (e), or (f) or section
27 303(2)(c), (d), (e), or (f), the court shall confine its

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SB 1026 as amended May 13, 1998

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1 consideration to a review of the record prepared pursuant to
2 section 322 or the driving record created under section 204a, and
3 shall not grant relief pursuant to subsection (3). The court
4 shall set aside the secretary of state's determination only if
5 the petitioner's substantial rights have been prejudiced because
6 the determination is any of the following:

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

9 (b) In excess of the secretary of state's statutory author-
10 ity or jurisdiction.

11 (c) Made upon unlawful procedure resulting in material prej-
12 udice to the petitioner.

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

15 (e) Arbitrary, capricious, or clearly an abuse or unwar-
16 ranted exercise of discretion.

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

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

22 (8) This section does not apply to a suspension, revocation,
23 or denial of a vehicle group designation imposed pursuant to
24 section 312f, 319a, or 319b.

25 (9) This section does not apply to a suspension, REVOCATION,
26 or denial of a license imposed pursuant to section 303(1)(o),
27 315(4), or 319e.

Enacting section 1. This amendatory act takes effect September
1, 1998.

03225'97 (S-1)