

SENATE BILL NO. 1026

March 19, 1998, Introduced by Senators ROGERS, STEIL,
DUNASKISS, BULLARD, BENNETT and SHUGARS and referred to
the Committee on Government Operations.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 315. (1) ~~(a) Any~~ AN operator or chauffeur ~~,~~ who
2 ~~shall change~~ CHANGES his OR HER residence ~~previous to~~ BEFORE
3 the expiration of a license granted under this chapter shall
4 immediately ~~return such license to the local examining board or~~
5 ~~the department, whose duty it shall be to write the new address~~
6 ~~on the reverse side of the license and the date of change~~ NOTIFY
7 THE SECRETARY OF STATE OF HIS OR HER NEW RESIDENCE ADDRESS. A
8 CHANGE OF ADDRESS NOTIFICATION SHALL BE IN A MANNER PRESCRIBED BY
9 THE SECRETARY OF STATE AND MAY INCLUDE NOTIFICATION BY PERSONALLY

1 APPEARING AT A BRANCH OFFICE OF THE SECRETARY OF STATE OR OTHER
2 LOCATION DESIGNATED BY THE SECRETARY OF STATE, OR A NOTIFICATION
3 BY MAIL, TELEPHONE, ELECTRONICALLY, OR BY ANY OTHER MEANS PRE-
4 SCRIBED BY THE SECRETARY OF STATE. UPON RECEIVING A CHANGE OF
5 ADDRESS NOTIFICATION, THE SECRETARY OF STATE SHALL CHANGE THE
6 PERSON'S DRIVER LICENSE RECORD TO INDICATE THE NEW ADDRESS AND
7 SHALL PROVIDE THE PERSON WITH A NEW LICENSE OR A LABEL OR SOME
8 OTHER MECHANISM CONTAINING THE NEW ADDRESS ON THE PERSON'S EXIST-
9 ING LICENSE. UPON RECEIPT OF A LABEL OR OTHER MECHANISM, THE
10 PERSON SHALL IMMEDIATELY AFFIX THE LABEL OR MECHANISM TO HIS OR
11 HER OPERATOR'S OR CHAUFFEUR'S LICENSE AS PRESCRIBED BY THE SECRE-
12 TARY OF STATE. IF THE SECRETARY OF STATE FURNISHED THE PERSON
13 WITH A NEW LICENSE, THE PERSON SHALL DESTROY HIS OR HER OLD
14 LICENSE AND REPLACE IT WITH THE NEW LICENSE.

15 (2) ~~(b) Failure to have such change of address recorded as~~
16 ~~herein provided may be cause for revocation or suspension of same~~
17 ~~immediately if there is no response to a notice mailed to his~~
18 ~~last known address.~~ IF A PERSON FAILS TO REPORT A CHANGE OF HIS
19 OR HER RESIDENTIAL ADDRESS AS REQUIRED UNDER THIS SECTION AND
20 SUBSEQUENTLY THERE IS NO RESPONSE TO A NOTICE MAILED TO THE
21 ADDRESS SHOWN FOR THE PERSON ON THE MASTER DRIVING RECORDS, THE
22 SECRETARY OF STATE MAY IMMEDIATELY SUSPEND OR REVOKE HIS OR HER
23 LICENSE.

24 (3) A PERSON SHALL NOT REPORT A CHANGE OF ADDRESS TO THE
25 SECRETARY OF STATE FOR ANOTHER PERSON WITHOUT THE CONSENT OF THE
26 OTHER PERSON. A PERSON WHO IS CONVICTED OF A VIOLATION OF THIS
27 SUBSECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT

1 FOR NOT MORE THAN 90 DAYS OR A FINE OF \$100.00, OR BOTH. AS PART
2 OF THE SENTENCE, THE COURT SHALL ORDER THE SECRETARY OF STATE TO
3 SUSPEND THE PERSON'S OPERATOR'S OR CHAUFFEUR'S LICENSE FOR 6
4 MONTHS. THE COURT SHALL NOT ORDER THE SECRETARY OF STATE TO
5 ISSUE A RESTRICTED LICENSE TO THE PERSON DURING THE SUSPENSION.
6 UPON A SECOND OR SUBSEQUENT CONVICTION UNDER THIS SUBSECTION, A
7 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
8 MORE THAN 1 YEAR OR A FINE OF \$1,000.00, OR BOTH. AS PART OF THE
9 SENTENCE, THE COURT SHALL ORDER THE SECRETARY OF STATE TO REVOKE
10 THE PERSON'S OPERATOR'S OR CHAUFFEUR'S LICENSE. THE SUSPENSION
11 OR REVOCATION OF AN OPERATOR'S OR CHAUFFEUR'S LICENSE UNDER THIS
12 SUBSECTION IS NOT APPEALABLE UNDER SECTION 323.

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

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

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

1 (c) A violation of section 413 or 414 of the Michigan penal
2 code, ~~Act No. 328 of the Public Acts of 1931, being sections~~
3 ~~750.413 and 750.414 of the Michigan Compiled Laws~~ 1931 PA 328,
4 MCL 750.413 AND 750.414, or a violation of section 1 of ~~Act~~
5 ~~No. 214 of the Public Acts of 1931, being section 752.191 of the~~
6 ~~Michigan Compiled Laws~~ 1931 PA 214, MCL 752.191.

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

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

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

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

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

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

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

24 (2) The secretary of state shall suspend the license of a
25 person convicted of malicious destruction resulting from the
26 operation of a motor vehicle under section 382 of the Michigan
27 penal code, ~~Act No. 328 of the Public Acts of 1931, being~~

1 ~~section 750.382 of the Michigan Compiled Laws~~ 1931 PA 328, MCL
2 750.382, for not more than 1 year as ordered by the court as part
3 of the sentence.

4 (3) The secretary of state shall immediately suspend a
5 person's license for the period specified in the abstract of con-
6 viction upon receiving the person's license and abstract of con-
7 viction forwarded to the secretary of state pursuant to section
8 367c of the Michigan penal code, ~~Act No. 328 of the Public Acts~~
9 ~~of 1931, being section 750.367c of the Michigan Compiled Laws~~
10 1931 PA 328, MCL 750.367C.

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

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

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

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

21 (i) One conviction under section 625(1) or former section
22 625(1) or (2).

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

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

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.

1 (5) Upon receiving a certificate of conviction under section
2 33b(2) of the Michigan liquor control act, ~~Act No. 8 of the~~
3 ~~Public Acts of the Extra Session of 1933, being section 436.33b~~
4 ~~of the Michigan Compiled Laws~~ 1933 (EX SESS) PA 8, MCL 436.33B,
5 or a local ordinance or law of another state substantially corre-
6 sponding to section 33b(2) of ~~Act No. 8 of the Public Acts of~~
7 ~~the Extra Session of 1933~~ THE MICHIGAN LIQUOR CONTROL ACT, 1933
8 (EX SESS) PA 8, MCL 436.33B, the secretary of state shall suspend
9 pursuant to court order the person's operator's or chauffeur's
10 license for 90 days. A suspension under this subsection shall be
11 in addition to any other suspension of the person's license.

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

20 (7) Upon receiving an abstract of conviction for a violation
21 of section 33b(1) of ~~Act No. 8 of the Public Acts of the Extra~~
22 ~~Session of 1933, being section 436.33b of the Michigan Compiled~~
23 ~~Laws~~ THE MICHIGAN LIQUOR CONTROL ACT, 1933 (EX SESS) PA 8, MCL
24 436.33B, or section 624a or 624b or a local ordinance substan-
25 tially corresponding to those sections, the secretary of state
26 shall suspend the person's operator's or chauffeur's license for
27 the period of time described in section 33b(4) of ~~Act No. 8 of~~

1 ~~the Public Acts of the Extra Session of 1933~~ THE MICHIGAN LIQUOR
2 CONTROL ACT, 1933 (EX SESS) PA 8, MCL 436.33B, or section 624a or
3 624b notwithstanding any court order to the contrary and, if
4 applicable, issue a restricted license as ordered by the court in
5 the manner provided for in section 33b of ~~Act No. 8 of the~~
6 ~~Public Acts of the Extra Session of 1933~~ THE MICHIGAN LIQUOR
7 CONTROL ACT, 1933 (EX SESS) PA 8, MCL 436.33B, or section 624a or
8 624b. If the person does not possess an operator's or
9 chauffeur's license, the secretary of state shall deny the
10 person's application for an operator's or chauffeur's license for
11 the applicable suspension period.

12 (8) UPON RECEIVING THE ABSTRACT OF A PERSON'S CONVICTION FOR
13 A VIOLATION OF SECTION 315, THE SECRETARY OF STATE IMMEDIATELY
14 SHALL SUSPEND THE PERSON'S LICENSE FOR 6 MONTHS OR REVOKE THE
15 PERSON'S LICENSE PURSUANT TO THE SENTENCE OR DISPOSITION OF THE
16 COURT.

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.

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

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.

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

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 or denial of
26 a license imposed pursuant to section 303(1)(o) or 319e.