

Act No. 346
Public Acts of 1998
Approved by the Governor
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

**Introduced by Senators Bennett, Shugars, Gougeon, Stille, Dingell, Peters, DeBeaussaert, McManus,
Hart, North, Miller and Byrum**

ENROLLED SENATE BILL No. 625

AN ACT to amend 1949 PA 300, entitled "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," by amending sections 204a, 219, 233, 320e, and 323 (MCL 257.204a, 257.219, 257.233, 257.320e, and 257.323), section 204a as amended by 1996 PA 102, section 219 as amended by 1985 PA 67, section 233 as amended by 1980 PA 398, section 320e as amended by 1996 PA 493, and section 323 as amended by 1994 PA 449.

The People of the State of Michigan enact:

Sec. 204a. (1) The secretary of state shall create and maintain a computerized central file that provides an individual, historical driving record for a person, including a nonresident, with respect to all of the following:

- (a) A license issued to the person under chapter 3.
- (b) A conviction or civil infraction determination entered against the person for a violation of this act or a local ordinance substantially corresponding to a provision of this act.
- (c) A failure of the person to comply with an order or judgment issued pursuant to section 907.
- (d) A cancellation, denial, revocation, suspension, or restriction of the person's operating privilege under this act.
- (e) An accident in which the person is involved.
- (f) A conviction of the person for an offense described in section 319e.
- (g) A temporary registration plate, vehicle immobilization, or vehicle forfeiture.
- (h) Any other information received by the secretary of state regarding the person that is required to be maintained as part of the person's driving record as provided by law.

(2) A secretary of state certified computer-generated or paper copy of an order, record, or paper maintained in the computerized central file of the secretary of state is admissible in evidence in the same manner as the original and is prima facie proof of the contents of and the facts stated in the original.

(3) An order, record, or paper generated by the computerized central file of the secretary of state may be certified electronically by the generating computer. The certification shall be a certification of the order, record, or paper as it appeared on a specific date.

(4) A court or the office of the clerk of a court of this state which is electronically connected by a terminal device to the computerized central file of the secretary of state may receive into and use as evidence in any case the computer-generated certified information obtained by the terminal device from the file. A duly authorized employee of a court of record of this state may order a record for an individual from a secretary of state computer terminal device located in, and under the control of, the court, and certify in writing that the document was produced from the terminal and that the document was not altered in any way.

Sec. 219. (1) The secretary of state shall refuse issuance of a registration or a transfer of registration upon any of the following grounds:

(a) The application contains a false or fraudulent statement, the applicant has failed to furnish required information or reasonable additional information requested by the secretary of state, or the applicant is not entitled to the registration of the vehicle under this act.

(b) The secretary of state has reasonable ground to believe that the vehicle is a stolen or embezzled vehicle, or that the granting of registration would constitute a fraud against the rightful owner or other person having a valid lien upon the vehicle.

(c) The registration of the vehicle is suspended or revoked for any reason provided in the motor vehicle laws of this state.

(d) The operator's or chauffeur's license of the owner or lessee is suspended, revoked, or denied or the operator has never been licensed by this state at the time of the application for a third or subsequent violation of section 625 or 625m or a local ordinance substantially corresponding to section 625 or 625m or a fourth or subsequent suspension or revocation under section 904. This subdivision takes effect June 1, 2000.

(e) The required fee has not been paid.

(f) The applicant, at the time of applying for registration or a transfer of registration other than a temporary registration issued pursuant to section 226b, fails to present a certificate of compliance or waiver for a motor vehicle as required under either part 63 or part 65 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.6301 to 324.6321 and 324.6501 to 324.6539.

(g) The application for registration of a vehicle with an elected gross weight of 55,000 pounds or more is not accompanied with proof of payment of the federal highway use tax levied pursuant to the surface transportation assistance act of 1982, Public Law 97-424, 96 Stat. 2097.

(2) The secretary of state shall refuse issuance of a certificate of title or a salvage certificate of title upon any of the following grounds:

(a) The application contains a false or fraudulent statement, the applicant has failed to furnish required information or reasonable additional information requested by the secretary of state, or the applicant is not entitled to the issuance of a certificate of title or salvage certificate of title under this act.

(b) The secretary of state has reasonable ground to believe that the vehicle is a stolen or embezzled vehicle or that the issuance of a certificate of title or a salvage certificate of title would constitute a fraud against the rightful owner or other person having a valid security interest upon the vehicle.

(c) The required fee has not been paid.

(d) The operator's or chauffeur's license of the owner or lessee is suspended, revoked, or denied or the operator has never been licensed by this state at the time of the application for a third or subsequent violation of section 625 or 625m or a local ordinance substantially corresponding to section 625 or 625m or a fourth or subsequent suspension or revocation under section 904. This subdivision takes effect June 1, 2000.

Sec. 233. (1) If the owner of a registered vehicle transfers or assigns the title or interest in the vehicle, the registration plates issued for the vehicle shall be removed and transferred to the owner's spouse, mother, father, sister, brother, or child to whom title or interest in the vehicle is transferred, or retained and preserved by the owner for transfer to another vehicle upon application and payment of the required fees. A person shall not transfer the plates to a vehicle without applying for a proper certificate of registration describing the vehicle to which the plates are being transferred except as provided in section 217(2). If the owner of a registered vehicle acquires another vehicle without transferring or assigning the title or interest in the vehicle for which the plates were issued, the owner may have the plates transferred to the subsequently acquired vehicle upon application and payment of the required fees.

(2) A person shall not purchase or lease another vehicle or an interest in another vehicle with the intent to circumvent the restrictions created by immobilization of a vehicle under this act.

(3) A person shall not transfer or attempt to transfer ownership or right of possession of a vehicle subject to forfeiture or ordered forfeited under this act with the intent to avoid the forfeiture of that vehicle.

(4) During the time a vehicle is subject to a temporary registration plate, vehicle forfeiture, or immobilization under this act, a person shall not without a court order transfer or assign the title or an interest in the vehicle to a person who is not subject to payment of a use tax under section 3 of the use tax act, 1937 PA 94, MCL 205.93.

(5) A person who violates subsection (2), (3), or (4) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(6) If the assigned holder of registration plates applies for a new registration certificate, the application shall be accompanied either by the old registration certificate or by a certificate of title showing the person to be the assigned holder of the registration plates for which the old registration certificate had been issued.

(7) A person who fails or neglects to fulfill the provisions of subsection (6) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(8) The owner shall indorse on the back of the certificate of title an assignment of the title with warranty of title in the form printed on the certificate with a statement of all security interests in the vehicle or in accessories on the vehicle and deliver or cause the certificate to be mailed or delivered to the purchaser or transferee at the time of the delivery to the purchaser or transferee of the vehicle. The certificate shall show the payment or satisfaction of any security interest as shown on the original title.

(9) Upon the delivery of a motor vehicle and the transfer, sale, or assignment of the title or interest in a motor vehicle by a person, including a dealer, the effective date of the transfer of title or interest in the vehicle shall be the date of execution of either the application for title or the certificate of title.

Sec. 320e. (1) Except as otherwise provided in subsection (2), (3), or (4), a person whose operator's or chauffeur's license is suspended, revoked, or restricted pursuant to section 303, 319, 320, 324, 625, 625b, 625f, or 904 shall pay a license reinstatement fee of \$125.00 to the secretary of state before a license is issued or returned to the person. The increase in the reinstatement fee from \$60.00 to \$125.00 shall be imposed for a license that is issued or returned on or after October 1, 1991 regardless of when the license was suspended, revoked, or restricted. Of the increase in the reinstatement fee from \$60.00 to \$125.00, \$25.00 shall be allocated to the department of state, \$10.00 shall be deposited by the department of treasury in the drunk driving prevention equipment and training fund created under section 625h(1), and \$30.00 shall be deposited by the department of treasury in the drunk driving caseload assistance fund created under section 625h(5). The fee shall be waived if the license was suspended or restricted because of the person's mental or physical infirmity or disability.

(2) A person whose operator's or chauffeur's license is suspended, revoked, or restricted pursuant to section 319(7) shall pay a license reinstatement fee of \$125.00 to the secretary of state before a license is issued or returned to the person. The fee shall be waived if the license was suspended or restricted because of the person's mental or physical infirmity or disability.

(3) A person whose operator's or chauffeur's license is suspended, revoked, or restricted pursuant to section 319e shall pay a license reinstatement fee of \$125.00 to the secretary of state before a license is issued or returned to the person. Of the \$125.00 fee, \$95.00 shall be allocated to the department of state and \$30.00 shall be deposited by the department of treasury in the drug case information management fund created under section 323d.

(4) A person whose operator's or chauffeur's license is suspended as provided in section 321c shall pay a license reinstatement fee of \$85.00 to the secretary of state before a license is issued or returned to the person. The fee shall be deposited in the state general fund and shall be used to defray the expenses of the secretary of state in processing the suspension and reinstatement of driver licenses under this section.

(5) The secretary of state shall assess points and take licensing action, including suspending, revoking, or denying a license under this act, according to the law in effect at the time of the conspiracy to commit the offense or at the time the offense was committed or attempted or the civil infraction occurred. If 1 or more of the convictions involved in a licensing sanction is a violation or attempted violation of this act committed or attempted after January 1, 1992, the secretary of state shall apply the law in effect after January 1, 1992.

(6) Judicial review of an administrative licensing sanction under section 303 shall be governed by the law in effect at the time the offense was committed or attempted. If 1 or more of the convictions involved in an administrative licensing sanction is a violation or attempted violation of this act committed or attempted after January 1, 1992, judicial review of that sanction shall be governed by the law in effect after January 1, 1992.

Sec. 323. (1) A person aggrieved by a final determination of the secretary of state denying the person an operator's or chauffeur's license, a vehicle group designation, or an indorsement on a license or revoking, suspending, or restricting an operator's or chauffeur's license, vehicle group designation, or an indorsement may petition for a review of the

determination in the circuit court in the county where the person was arrested if the denial or suspension was imposed pursuant to section 625f or pursuant to the order of a trial court under section 328 or, in all other cases, in the circuit court in the person's county of residence. The person shall file the petition within 63 days after the determination is made except that for good cause shown the court may allow the person to file petition within 182 days after the determination is made. As provided in section 625f, a peace officer aggrieved by a determination of a hearing officer in favor of a person who requested a hearing under section 625f may, with the prosecuting attorney's consent, petition for review of the determination in the circuit court in the county where the arrest was made. The peace officer shall file the petition within 63 days after the determination is made except that for good cause shown the court may allow the peace officer to file the petition within 182 days after the determination is made.

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

(3) The court may take testimony and examine all the facts and circumstances relating to the denial, suspension, restriction, or revocation of the person's license under sections 303(1)(g), 320, or 904(8) or (9), a licensing action under section 310d, or a suspension for a first violation under section 625f. The court may affirm, modify, or set aside the restriction, suspension, revocation, or denial except the court shall not order the secretary of state to issue a restricted or unrestricted chauffeur's license that would permit the person to drive a commercial motor vehicle that hauls a hazardous material. The court shall duly enter the order and the petitioner shall file a certified copy of the order with the secretary of state's office in Lansing within 7 days after entry of the order.

(4) Except as otherwise provided in this section, in reviewing a determination resulting in a denial, suspension, restriction, or revocation under this act, the court shall confine its consideration to a review of the record prepared pursuant to section 322 or 625f or the driving record created under section 204a for a statutory legal issue, and shall not grant restricted driving privileges. The court shall set aside the secretary of state's determination only if the petitioner's substantial rights have been prejudiced because the determination is any of the following:

- (a) In violation of the Constitution of the United States, the state constitution of 1963, or a statute.
- (b) In excess of the secretary of state's statutory authority or jurisdiction.
- (c) Made upon unlawful procedure resulting in material prejudice to the petitioner.
- (d) Not supported by competent, material, and substantial evidence on the whole record.
- (e) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.
- (f) Affected by other substantial and material error of law.

Enacting section 1. This amendatory act takes effect October 1, 1999.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 89th Legislature are enacted into law:

- (a) Senate Bill No. 268.
- (b) Senate Bill No. 269.
- (c) Senate Bill No. 627.
- (d) Senate Bill No. 869.
- (e) Senate Bill No. 870.
- (f) Senate Bill No. 953.
- (g) House Bill No. 4210.
- (h) House Bill No. 4576.
- (i) House Bill No. 4959.
- (j) House Bill No. 4960.
- (k) House Bill No. 4961.
- (l) House Bill No. 5122.
- (m) House Bill No. 5123.
- (n) House Bill No. 5951.
- (o) House Bill No. 5952.
- (p) House Bill No. 5953.

- (q) House Bill No. 5954.
- (r) House Bill No. 5955.
- (s) House Bill No. 5956.

Carol Morey Viventi

Secretary of the Senate.

Mary R. Bell

Clerk of the House of Representatives.

Approved _____

Governor.