

Act No. 159
Public Acts of 2001
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Senators Bennett, Young, Steil, Garcia, McCotter, Hammerstrom, Shugars, Sikkema and Goschka

ENROLLED SENATE BILL No. 469

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 impose liability upon the state or 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 303, 307, 319, 322, 323, 324, 617, and 904d (MCL 257.303, 257.307, 257.319, 257.322, 257.323, 257.324, 257.617, and 257.904d), sections 303 and 319 as amended by 2001 PA 103, section 307 as amended by 1999 PA 118, section 322 as amended by 1998 PA 340, section 323 as amended by 1999 PA 73, section 324 as amended by 1985 PA 79, section 617 as amended by 1989 PA 267, and section 904d as amended by 2000 PA 460.

The People of the State of Michigan enact:

Sec. 303. (1) The secretary of state shall not issue a license under this act to any of the following:

- (a) A person, as an operator, who is less than 18 years of age, except as otherwise provided in this act.
- (b) A person, as a chauffeur, who is less than 18 years of age, except as otherwise provided in this act.
- (c) A person whose license is suspended, revoked, denied, or canceled in any state. If the suspension, revocation, denial, or cancellation is not from the jurisdiction that issued the last license to the person, the secretary of state may issue a license after the expiration of 5 years from the effective date of the most recent suspension, revocation, denial, or cancellation.
- (d) A person who in the opinion of the secretary of state is afflicted with or suffering from a physical or mental disability or disease preventing that person from exercising reasonable and ordinary control over a motor vehicle while operating the motor vehicle upon the highways.
- (e) A person who is unable to understand highway warning or direction signs in the English language.

(f) A person who is unable to pass a knowledge, skill, or ability test administered by the secretary of state in connection with the issuance of an original operator's or chauffeur's license, original motorcycle indorsement, or an original or renewal of a vehicle group designation or vehicle indorsement.

(g) A person who has been convicted of, has received a juvenile disposition for, or has been determined responsible for 2 or more moving violations under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state within the preceding 3 years, if the violations occurred before issuance of an original license to the person in this or another state.

(h) A nonresident including a foreign exchange student.

(i) A person who has failed to answer a citation or notice to appear in court or for any matter pending or fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, in violation of section 321a, until that person answers the citation or notice to appear in court or for any matter pending or complies with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, as provided under section 321a.

(j) A person not licensed under this act who has been convicted of, has received a juvenile disposition for, or has been determined responsible for a crime or civil infraction described in section 319, 324, or 904. A person shall be denied a license under this subdivision for the length of time corresponding to the period of the licensing sanction that would have been imposed under section 319, 324, or 904 if the person had been licensed at the time of the violation.

(k) A person not licensed under this act who has been convicted of or received a juvenile disposition for committing a crime described in section 319e. A person shall be denied a license under this subdivision for the length of time that corresponds to the period of the licensing sanction that would have been imposed under section 319e if the person had been licensed at the time of the violation.

(l) A person not licensed under this act who is determined to have violated section 33b(1) of former 1933 (Ex Sess) PA 8, section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b of this act. The person shall be denied a license under this subdivision for a period of time that corresponds to the period of the licensing sanction that would have been imposed under those sections had the person been licensed at the time of the violation.

(2) Upon receiving the appropriate records of conviction, the secretary of state shall revoke the operator's or chauffeur's license of a person and deny issuance of an operator's or chauffeur's license to a person having any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Any combination of 2 convictions within 7 years for reckless driving in violation of section 626.

(b) Any combination of 2 or more convictions within 7 years for any of the following:

(i) A felony in which a motor vehicle was used.

(ii) A violation or attempted violation of section 601b(2) or (3), section 601c(1) or (2), section 602a(4) or (5), section 617, section 653a(3) or (4), or section 904(4) or (5).

(iii) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(iv) A violation or attempted violation of section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

(c) Any combination of 2 convictions within 7 years for any of the following or a combination of 1 conviction for a violation or attempted violation of section 625(6) and 1 conviction for any of the following within 7 years:

(i) A violation or attempted violation of section 625(1), (3), (4), (5), or (7).

(ii) A violation of former section 625(1) or (2) or former section 625b.

(iii) A violation or attempted violation of section 625m.

(d) One conviction for a violation or attempted violation of section 315(5), section 601b(3), section 601c(2), section 602a(4) or (5), section 617, section 625(4) or (5), section 653a(4), or section 904(4) or (5).

(e) One conviction of negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(f) One conviction for a violation or attempted violation of section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

(g) Any combination of 3 convictions within 10 years for any of the following or 1 conviction for a violation or attempted violation of section 625(6) and any combination of 2 convictions for any of the following within 10 years, if any of the convictions resulted from an arrest on or after January 1, 1992:

(i) A violation or attempted violation of section 625(1), (3), (4), (5), or (7).

(ii) A violation of former section 625(1) or (2) or former section 625b.

(iii) A violation or attempted violation of section 625m.

(3) The secretary of state shall revoke a license under subsection (2) notwithstanding a court order unless the court order complies with section 323.

(4) The secretary of state shall not issue a license under this act to a person whose license has been revoked under this act or revoked and denied under subsection (2) until all of the following occur, as applicable:

(a) The later of the following:

(i) The expiration of not less than 1 year after the license was revoked or denied.

(ii) The expiration of not less than 5 years after the date of a subsequent revocation or denial occurring within 7 years after the date of any prior revocation or denial.

(b) For a denial under subsection (2)(a), (b), (c), and (g), the person rebuts by clear and convincing evidence the presumption resulting from the prima facie evidence that he or she is a habitual offender. The convictions that resulted in the revocation and denial constitute prima facie evidence that he or she is a habitual offender.

(c) The person meets the requirements of the department.

(5) Multiple convictions or civil infraction determinations resulting from the same incident shall be treated as a single violation for purposes of denial or revocation of a license under this section.

(6) As used in this section, "felony in which a motor vehicle was used" means a felony during the commission of which the person operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

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

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

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

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

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

(a) The applicant's full name, date of birth, residence address, height, sex, eye color, signature, other information required or permitted on the license under this chapter, and, to the extent required to comply with federal law, the applicant's social security number. The applicant may provide a mailing address if the applicant receives mail at an address different from his or her residence address.

(b) The following notice shall be included to inform the applicant that under sections 509o and 509r of the Michigan election law, 1954 PA 116, MCL 168.509o and 168.509r, the secretary of state is required to use the residence address provided on this application as the applicant's residence address on the qualified voter file for voter registration and voting:

"NOTICE: Michigan law requires that the same address be used for voter registration and driver license purposes. Therefore, if the residence address you provide in this application differs from your voter registration address as it appears on the qualified voter file, the secretary of state will automatically change your voter registration to match the residence address on this application, after which your voter registration at your former address will no longer be valid for voting purposes. A new voter registration card, containing the information of your polling place, will be provided to you by the clerk of the jurisdiction where your residence address is located."

(c) For an operator's or chauffeur's license with a vehicle group designation or indorsement, the following certifications by the applicant:

(i) The applicant meets the applicable federal physical driver qualification requirements under 49 C.F.R. part 391 if the applicant operates or intends to operate in interstate commerce or meets the applicable physical qualifications under the rules promulgated by the department of state police under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22, if the applicant operates or intends to operate in intrastate commerce.

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

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

(iv) The applicant does not have a driver's license from more than 1 state.

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

(i) The applicant has not had more than 1 license.

(ii) The applicant has not had any license suspended, revoked, or canceled.

(iii) The applicant has not been convicted of any offense described in section 319b while operating a motor vehicle.

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

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

(vi) The applicant qualifies under either of the following:

(A) He or she has passed a behind-the-wheel driving test given by a state with a commercial motor vehicle driver licensing and testing system and taken in a representative vehicle for that applicant's driver's license vehicle group designation.

(B) For at least 2 years immediately preceding application, the applicant has operated a vehicle representative of the commercial motor vehicle group or passenger vehicle for which he or she is applying. The applicant's employer or the applicant, if self-employed, shall provide evidence of this requirement.

(2) Except as provided in this subsection, an applicant for an operator's or chauffeur's license may have his or her image captured or reproduced when the application for the license is made. An applicant required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card shall have his or her image captured or reproduced when the application for the license is made. The secretary of state shall acquire by purchase or lease the equipment for capturing the images and may furnish the equipment to a local unit authorized by the secretary of state to license drivers. The secretary of state shall acquire equipment purchased or leased pursuant to this section under standard purchasing procedures of the department of management and budget based on standards and specifications established by the secretary of state. The secretary of state shall not purchase or lease equipment until an appropriation for the equipment has been made by the legislature. An image captured pursuant to this section shall appear on the applicant's operator's or chauffeur's license. Except as provided in this subsection, the secretary of state may retain and use a person's image described in this subsection only for programs administered by the secretary of state. Except as provided in this subsection, the secretary of state shall not use a person's image unless the person grants written permission for that purpose to the secretary of state or specific enabling legislation permitting the use is enacted into law. A law enforcement agency of this state has access to information retained by the secretary of state under this subsection. The information may be utilized for any law enforcement purpose unless otherwise prohibited by law. The department of state police shall provide to the secretary of state updated lists of persons required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.732, and the secretary of state shall make the images of those persons available to the department of state police as provided in that act.

(3) An application shall contain a signature and certification by the applicant and shall be accompanied by the proper fee. The examiner shall collect the application fee and shall forward the fee to the secretary of state with the application. The secretary of state shall refund the application fee to the applicant if the license applied for is denied, but shall not refund the fee to an applicant who fails to complete the examination requirements of the secretary of state within 90 days after the date of application for a license. A service fee of \$1.00 shall be added to each fee collected for an original, renewal, duplicate, or corrected operator's or chauffeur's license. The service fee received and collected under this subsection shall be deposited in the state treasury to the credit of the general fund. The service fee shall be used to defray the expenses of the secretary of state. Appropriations from the Michigan transportation fund shall not be used to compensate the secretary of state for costs incurred and services performed under this section.

(4) In conjunction with the issuance of an operator's or chauffeur's license, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(i) Written information explaining the applicant's right to make an anatomical gift in the event of death in accordance with section 310.

(ii) Written information describing the organ donation registry program maintained by Michigan's federally designated organ procurement organization or its successor organization. The written information required under this subparagraph shall include, in a type size and format that is conspicuous in relation to the surrounding material, the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization, along with an advisory to call Michigan's federally designated organ procurement organization or its successor organization with questions about the organ donor registry program.

(iii) Written information giving the applicant the opportunity to be placed on the organ donation registry described in subparagraph (ii).

(b) Provide the applicant with the opportunity to specify on his or her operator's or chauffeur's license that he or she is willing to make an anatomical gift in the event of death in accordance with section 310.

(c) Inform the applicant in writing that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the organ donor registry described in subdivision (a)(ii), the secretary of state will

forward the applicant's name and address to the organ donation registry maintained by Michigan's federally designated organ procurement organization or its successor organization, as required by subsection (6).

(5) The secretary of state may fulfill the requirements of subsection (4) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for an operator's or chauffeur's license renewal or the issuance of an operator's or chauffeur's license.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for operator's and chauffeur's licenses processed by electronic means.

(6) If an applicant indicates a willingness under this section to have his or her name placed on the organ donor registry described in subsection (4)(a)(ii), the secretary of state shall within 10 days forward the applicant's name and address to the organ donor registry maintained by Michigan's federally designated organ procurement organization or its successor organization. The secretary of state may forward information under this subsection by mail or by electronic means. The secretary of state shall not maintain a record of the name or address of an individual who indicates a willingness to have his or her name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have his or her name placed on the organ donor registry that is obtained by the secretary of state under subsection (4) and forwarded under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243.

(7) If an application is received from a person previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record and other available information from the national driver register. When received, the driving record and other available information become a part of the driver's record in this state. If the application is for an original, renewal, or upgrade of a vehicle group designation or indorsement, the secretary of state shall also check the applicant's driving record with the federal commercial driver license information system before issuing that group designation or indorsement.

(8) Except for a vehicle group designation or indorsement or as provided in this subsection, the secretary of state may issue a renewal operator's or chauffeur's license for 1 additional 4-year period by mail or by other methods prescribed by the secretary of state. The secretary of state shall issue a renewal license only in person if the licensee has a driving record with a conviction or civil infraction determination obtained in the 48 months preceding renewal or if the person is a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card. However, the secretary of state shall not refuse to issue a renewal license by mail or by other method because of a conviction or civil infraction determination for which fines and costs were waived under section 901a or section 907. If a license is renewed by mail or by other method, the secretary of state shall issue evidence of renewal to indicate the date the license expires in the future. The department of state police shall provide to the secretary of state updated lists of persons required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(9) Upon request, the secretary of state shall provide an information manual to an applicant explaining how to obtain a vehicle group designation or indorsement. The manual shall contain the information required under 49 C.F.R. part 383.

(10) The secretary of state shall not disclose a social security number obtained under subsection (1) to another person except for use for 1 or more of the following purposes:

(a) Compliance with chapter 313 of title 49 of the United States Code, 49 U.S.C. 31301 to 31317, and regulations and state law and rules related to this chapter.

(b) Through the law enforcement information network, to carry out the purposes of section 466(a) of part D of title IV of the social security act, 42 U.S.C. 666, in connection with matters relating to paternity, child support, or overdue child support.

(c) As otherwise required by law.

(11) The secretary of state shall not display a person's social security number on the person's operator's or chauffeur's license.

(12) A requirement under this section to include a social security number on an application does not apply to an applicant who demonstrates he or she is exempt under law from obtaining a social security number or to an applicant who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The secretary of state shall inform the applicant of this possible exemption.

Sec. 319. (1) The secretary of state shall immediately suspend a person's license as provided in this section upon receiving a record of the person's conviction for a crime described in this section, whether the conviction is under a law

of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state.

(2) The secretary of state shall suspend the person's license for 1 year for any of the following crimes:

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

(b) A violation of section 413 of the Michigan penal code, 1931 PA 328, MCL 750.413.

(c) A violation of section 1 of former 1931 PA 214, MCL 752.191, or section 626c.

(d) A felony in which a motor vehicle was used. As used in this section, "felony in which a motor vehicle was used" means a felony during the commission of which the person convicted operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

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

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

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

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

(e) A violation of section 602a(2) or (3) of this act or section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

(3) The secretary of state shall suspend the person's license for 90 days for any of the following crimes:

(a) Failing to stop and disclose identity at the scene of an accident resulting in injury in violation of section 617a.

(b) A violation of section 601b(2), section 601c(1), section 626, or section 653a(3).

(c) Malicious destruction resulting from the operation of a vehicle under section 382(1)(b), (c), or (d) of the Michigan penal code, 1931 PA 328, MCL 750.382.

(d) A violation of section 703(2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(4) The secretary of state shall suspend the person's license for 30 days for malicious destruction resulting from the operation of a vehicle under section 382(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.382.

(5) For perjury or making a false certification to the secretary of state under any law requiring the registration of a motor vehicle or regulating the operation of a vehicle on a highway, or for conduct prohibited under section 324(1) or a local ordinance substantially corresponding to section 324(1), the secretary shall suspend the person's license as follows:

(a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 90 days.

(b) If the person has 1 or more prior convictions for an offense described in this subsection within 7 years, for 1 year.

(6) For a violation of section 414 of the Michigan penal code, 1931 PA 328, MCL 750.414, the secretary of state shall suspend the person's license as follows:

(a) If the person has no prior conviction for that offense within 7 years, for 90 days.

(b) If the person has 1 or more prior convictions for that offense within 7 years, for 1 year.

(7) For a violation of section 624a or 624b of this act or section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, the secretary of state shall suspend the person's license as follows:

(a) If the person has 1 prior conviction for an offense described in this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, for 90 days. The secretary of state may issue the person a restricted license after the first 30 days of suspension.

(b) If the person has 2 or more prior convictions for an offense described in this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue the person a restricted license after the first 60 days of suspension.

(8) The secretary of state shall suspend the person's license for a violation of section 625 or 625m as follows:

(a) For 180 days for a violation of section 625(1) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension, except that the secretary of state shall not issue a restricted license during the first 30 days of suspension.

(b) For 90 days for a violation of section 625(3) if the person has no prior convictions within 7 years. However, if the person is convicted of a violation of section 625(3), for operating a vehicle when, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate the vehicle was visibly impaired, the secretary of state shall suspend the person's license under this subdivision for 180 days. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.

(c) For 30 days for a violation of section 625(6) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.

- (d) For 90 days for a violation of section 625(6) if the person has 1 or more prior convictions for that offense within 7 years.
- (e) For 180 days for a violation of section 625(7) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license after the first 90 days of suspension.
- (f) For 90 days for a violation of section 625m if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.
- (9) For a violation of section 367c of the Michigan penal code, 1931 PA 328, MCL 750.367c, the secretary of state shall suspend the person's license as follows:
- (a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 6 months.
 - (b) If the person has 1 or more convictions for an offense described in this subsection within 7 years, for 1 year.
- (10) For a violation of section 315(4), the secretary of state may suspend the person's license for 6 months.
- (11) Except as provided in subsection (13), a suspension under this section shall be imposed notwithstanding a court order unless the court order complies with section 323.
- (12) If the secretary of state receives records of more than 1 conviction of a person resulting from the same incident, a suspension shall be imposed only for the violation to which the longest period of suspension applies under this section.
- (13) The secretary of state may waive a suspension of a person's license imposed under this act if the person submits proof that a court in another state revoked, suspended, or restricted his or her license for a period equal to or greater than the period of a suspension prescribed under this act for the violation and that the revocation, suspension, or restriction was served for the violation, or may grant a restricted license.
- (14) The secretary of state shall not issue a restricted license to a person whose license is suspended under this section unless a restricted license is authorized under this section and the person is otherwise eligible for a license.
- (15) The secretary of state shall not issue a restricted license to a person under subsection (8) that would permit the person to operate a commercial motor vehicle that hauls hazardous material.
- (16) A restricted license issued under this section shall permit the person to whom it is issued to drive under 1 or more of the following circumstances:
- (a) In the course of the person's employment or occupation.
 - (b) To and from any combination of the following:
 - (i) The person's residence.
 - (ii) The person's work location.
 - (iii) An alcohol or drug education or treatment program as ordered by the court.
 - (iv) The court probation department.
 - (v) A court-ordered community service program.
 - (vi) An educational institution at which the person is enrolled as a student.
 - (vii) A place of regularly occurring medical treatment for a serious condition for the person or a member of the person's household or immediate family.
- (17) While driving with a restricted license, the person shall carry proof of his or her destination and the hours of any employment, class, or other reason for traveling and shall display that proof upon a peace officer's request.
- (18) Subject to subsection (20), as used in subsection (8), "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:
- (a) Except as provided in subsection (19), a violation or attempted violation of section 625(1), (3), (4), (5), (6), or (7), section 625m, former section 625(1) or (2), or former section 625b.
 - (b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.
- (19) Except for purposes of the suspensions described in subsection (8)(c) and (d), only 1 violation or attempted violation of section 625(6), a local ordinance substantially corresponding to section 625(6), or a law of another state substantially corresponding to section 625(6) may be used as a prior conviction.
- (20) If 2 or more convictions described in subsection (18) are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

Sec. 322. (1) The secretary of state shall appoint a hearing officer to hear appeals from persons aggrieved by a final determination of the secretary of state denying an application for an operator's or chauffeur's license, suspending, restricting, or revoking an operator's or chauffeur's license, or other license action.

(2) The appeal shall be in writing and filed with the secretary of state within 14 days after the final determination. Upon notice of the appeal, the hearing officer shall require production of all documents filed in the matter, together with a transcript of any testimony taken.

(3) In a hearing or matter properly before the hearing officer, he or she may do any of the following:

(a) Issue subpoenas to compel attendance of witnesses.

(b) Issue process to compel attendance.

(c) Punish for contempt any witness failing to appear or testify in the same manner as provided by the rules and practice in the circuit court.

(d) Swear witnesses, administer oaths, and exemplify records in any matter before the officer.

(e) Take additional testimony he or she considers appropriate.

(4) A verbatim record shall be made of the hearing.

(5) After a hearing, the hearing officer may affirm, modify, or set aside a final determination of the secretary of state denying an application for an operator's or chauffeur's license, suspending, restricting, or revoking an operator's or chauffeur's license, or any other license action. The hearing officer shall include his or her findings of fact and conclusions of law in the record.

(6) Except as provided in subsection (7), if a person whose license has been denied or revoked under section 303(2)(c), (d), or (g) applies for a license or reinstatement of a license after the time period specified in section 303(4) has elapsed, the hearing officer may issue a restricted license to that person, setting restrictions upon operating a vehicle as the hearing officer determines are appropriate. If the hearing officer issues a restricted license following a hearing held after October 1, 1999, he or she shall do both of the following:

(a) Require installation of a functioning ignition interlock device that meets or exceeds the model specifications of the national highway traffic safety administration set forth in 57 F.R. p.11772, April 7, 1992, on each motor vehicle the person owns or intends to operate, the costs of which shall be borne by the person whose license is restricted.

(b) Condition issuance of a restricted license upon verification by the secretary of state that an ignition interlock device has been installed.

(7) The hearing officer shall not issue a restricted license under subsection (6) that would permit the person to operate a commercial motor vehicle that hauls hazardous material.

(8) If the hearing officer issues a restricted license to a person who intends to operate a vehicle owned by his or her employer, the secretary of state shall notify the employer of the employee's license restriction that requires the installation of an ignition interlock device. An employer who receives notice under this subsection is not required to install an ignition interlock device on the employer-owned vehicle. This subsection does not apply to a vehicle that is operated by a self-employed individual who uses the vehicle for both business and personal use.

(9) If the hearing officer issues a restricted license requiring an ignition interlock device, the initial period for requiring the device shall be 1 year. After that time, the hearing officer may continue the ignition interlock device requirement for any length of time.

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, or restriction of the person's license under sections 303(1)(d), 320, or 904(10) or (11), 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, 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 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.

Sec. 324. (1) A person shall not do any of the following:

(a) Display, or cause or permit to be displayed, or have in possession an operator's or chauffeur's license knowing the operator's or chauffeur's license to be fictitious or to have been canceled, revoked, suspended, or altered.

(b) Lend to or knowingly permit use of, by one not entitled to its use, the operator's or chauffeur's license issued to the person lending or permitting the use of the operator's or chauffeur's license.

(c) Display or to represent as one's own any operator's or chauffeur's license not issued to the person displaying the operator's or chauffeur's license.

(d) Fail or refuse to surrender to the department upon demand, any operator's or chauffeur's license which has been suspended, canceled, or revoked as provided by law.

(e) Use a false or fictitious name or give a false or fictitious address in an application for an operator's or chauffeur's license, or any renewal or duplicate of an operator's or chauffeur's license, or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in making an application.

(f) Alter or otherwise cause to be altered any operator's or chauffeur's license so as to knowingly make a false statement or knowingly conceal a material fact in order to misrepresent as one's own the operator's or chauffeur's license.

(g) Use or have in possession in committing a crime an operator's or chauffeur's license that has been altered or that is used to knowingly make a false statement or to knowingly conceal a material fact in order to misrepresent as one's own the operator's or chauffeur's license.

(h) Furnish to a peace officer false, forged, fictitious, or misleading verbal or written information identifying the person as another person, if the person is detained for a violation of this act or of a local ordinance substantially corresponding to a provision of this act.

(2) A license for an operator or chauffeur issued under this chapter upon an application that is untrue, or that contains false statements as to any material matters, is absolutely void from the date of issuance. The operator or chauffeur who was issued the license is considered unlicensed and the license issued shall be returned upon request or order of the department.

Sec. 617. (1) The driver of a vehicle who knows or who has reason to believe that he or she has been involved in an accident upon either public or private property, when the property is open to travel by the public, resulting in serious impairment of a body function or death of a person shall immediately stop his or her vehicle at the scene of the accident and shall remain there until the requirements of section 619 are fulfilled. The stop shall be made without obstructing traffic more than is necessary.

(2) Except as provided in subsection (3), a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 5 years or by a fine of not more than \$5,000.00, or both.

(3) A person who violates subsection (1) following an accident caused by that person that results in the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

Sec. 904d. (1) Vehicle immobilization applies as follows:

(a) For a conviction under section 625(1), (3), or (7) or a local ordinance substantially corresponding to section 625(1) or (3) with no prior convictions, the court may order vehicle immobilization for not more than 180 days.

(b) For a conviction under section 625(4) or (5) with no prior convictions, the court shall order vehicle immobilization for not more than 180 days.

(c) For a conviction under section 625(1), (3), (4), (5), or (7) within 7 years after a prior conviction, the court shall order vehicle immobilization for not less than 90 days or more than 180 days.

(d) For a conviction under section 625(1), (3), (4), (5), or (7) within 10 years after 2 or more prior convictions, the court shall order vehicle immobilization for not less than 1 year or more than 3 years.

(2) For a conviction or civil infraction determination resulting from a violation that occurred during a period of suspension, revocation, or denial, the following apply:

(a) Except as provided in subdivision (b), for 1 prior suspension, revocation, or denial under section 904(10), (11), or (12) or former section 904(2) or (4) within the past 7 years, the court may order vehicle immobilization for not more than 180 days.

(b) Except as provided in subdivisions (c) and (d), if the person is convicted under section 904(4) or (5), the court shall order vehicle immobilization for not more than 180 days.

(c) For any combination of 2 or 3 prior suspensions, revocations, or denials under section 904(10), (11), or (12) or former section 904(2) or (4) within the past 7 years, the court shall order vehicle immobilization for not less than 90 days or more than 180 days.

(d) For any combination of 4 or more prior suspensions, revocations, or denials under section 904(10), (11), or (12) or former section 904(2) or (4) within the past 7 years, the court shall order vehicle immobilization for not less than 1 year or more than 3 years.

(3) The defendant shall provide to the court the vehicle identification number and registration plate number of the vehicle involved in the violation.

(4) The court may order vehicle immobilization under this section under either of the following circumstances:

(a) The defendant is the owner, co-owner, lessee, or co-lessee of the vehicle operated during the violation.

(b) The owner, co-owner, lessee, or co-lessee knowingly permitted the vehicle to be operated in violation of section 625(2) or section 904(2) regardless of whether a conviction resulted.

(5) An order required to be issued under this section shall not be suspended.

(6) If a defendant is ordered imprisoned for the violation for which immobilization is ordered, the period of immobilization shall begin at the end of the period of imprisonment.

(7) This section does not apply to any of the following:

(a) A suspension, revocation, or denial based on a violation of the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

(b) A vehicle that is registered in another state or that is a rental vehicle.

(c) A vehicle owned by the federal government, this state, or a local unit of government of this state.

(d) A vehicle not subject to registration under section 216.

(e) Any of the following:

(i) A violation of chapter II.

(ii) A violation of chapter V.

(iii) A violation for failure to change address.

(iv) A parking violation.

(v) A bad check violation.

(vi) An equipment violation.

(vii) A pedestrian, passenger, or bicycle violation, other than a violation of section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b or a local ordinance substantially corresponding to section 624a or 624b.

(viii) A violation of a local ordinance substantially corresponding to a violation described in subparagraphs (i) to (vii).

(8) As used in this section:

(a) Subject to subsection (9), "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(i) Except as otherwise provided in this subparagraph, a violation or attempted violation of section 625(1), (3), (4), (5), (6), or (7), section 625m, former section 625(1) or (2), or former section 625b. However, only 1 violation or attempted

violation of section 625(6), a local ordinance substantially corresponding to section 625(6), or a law of another state substantially corresponding to section 625(6) may be used as a prior conviction.

(ii) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(b) "Vehicle immobilization" means requiring the motor vehicle involved in the violation immobilized in a manner provided in section 904e.

(9) If 2 or more convictions described in subsection (8)(a) are convictions for violations arising out of the same incident, only 1 conviction shall be used to determine whether the person has a prior conviction.

Enacting section 1. Sections 303, 319, 324, and 617 as amended by this amendatory act take effect February 1, 2002.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Jay E. Randall

Clerk of the House of Representatives.

Approved

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Governor.