

Act No. 652
Public Acts of 2002
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Reps. Gilbert, Julian and Howell

ENROLLED HOUSE BILL No. 5364

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 provide appropriations for certain purposes; 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 11, 217, 235, 310, 312e, and 401 (MCL 257.11, 257.217, 257.235, 257.310, 257.312e, and 257.401), section 11 as amended by 1990 PA 154, section 217 as amended by 2002 PA 552, section 235 as amended by 1988 PA 470, section 310 as amended by 2002 PA 554, section 312e as amended by 2002 PA 534, and section 401 as amended by 1995 PA 98, and by adding sections 4c, 35c, and 248j.

The People of the State of Michigan enact:

Sec. 4c. "Buy back vehicle" means a motor vehicle reacquired by a manufacturer as the result of an arbitration proceeding, pursuant to a customer satisfaction policy adopted by the manufacturer, or under 1986 PA 87, MCL 257.1401 to 257.1410, or a similar law of another state.

Sec. 11. (1) Except as provided in this section, "dealer" means a person who is 1 or more of the following:

(a) A person who in a 12-month period did 1 or more of the following:

(i) Engaged in the business of purchasing, selling, exchanging, brokering, leasing, or dealing in vehicles of a type required to be titled under this act.

(ii) Engaged in the business of purchasing, selling, exchanging, brokering, or dealing in salvageable parts of 5 or more vehicles.

(iii) Engaged in the business of buying 5 or more vehicles to sell vehicle parts or process into scrap metal.

(b) A person engaged in the actual remanufacturing of engines or transmissions.

(2) There is a rebuttable presumption that a person who in a 12-month period buys and sells, exchanges, brokers, leases, or deals in 5 or more vehicles, or buys and sells, exchanges, brokers, or deals in salvageable parts for 5 or more vehicles, or buys 5 or more vehicles to sell vehicle parts or to process into scrap metal is engaged in a business described in subsection (1).

(3) Dealer does not include any of the following:

(a) A financial institution, as defined in section 10 of 1909 PA 99, MCL 129.40, or an entity wholly owned by 1 or more financial institutions.

(b) A bank holding company.

(c) A person who buys or sells remanufactured vehicle engine and transmission salvageable vehicle parts or who receives in exchange used engines or transmissions if the primary business of the person is the selling of new vehicle parts and the person is not engaged in any other activity that requires a dealer license under this act.

(d) For purposes of dealer licensing, a person who negotiates the lease of a vehicle of a type required to be titled under this act for a lease term of less than 120 days.

(e) A person whose business is the financing of the purchase, sale, or lease of vehicles of a type required to be titled under this act and that is not otherwise engaged in activities described in subsection (1).

(f) An employee or agent of a dealer acting in the scope of his or her employment or agency.

(g) An insurer, as defined in section 106 of the insurance code of 1956, 1956 PA 218, MCL 500.106.

(h) A person engaged in leasing vehicles solely for commercial or other nonhousehold use.

Sec. 35c. "Off lease vehicle" means a motor vehicle leased for a term of more than 30 days that the lessee elects to purchase.

Sec. 217. (1) An owner of a vehicle that is subject to registration under this act shall apply to the secretary of state, upon an appropriate form furnished by the secretary of state, for the registration of the vehicle and issuance of a certificate of title for the vehicle. A vehicle brought into this state from another state or jurisdiction that has a rebuilt, salvage, scrap, flood, or comparable certificate of title issued by that other state or jurisdiction shall be issued a rebuilt, salvage, scrap, or flood certificate of title by the secretary of state. The application shall be accompanied by the required fee. An application for a certificate of title shall bear the signature of the owner. The application shall contain all of the following:

(a) The owner's name, the owner's bona fide residence, and either of the following:

(i) If the owner is an individual, the owner's mailing address.

(ii) If the owner is a firm, association, partnership, limited liability company, or corporation, the owner's business address.

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

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

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

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

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

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

(2) An applicant for registration of a leased pickup truck or passenger vehicle that is subject to registration under this act, except a vehicle that is subject to registration tax under section 801g, shall disclose in writing to the secretary of state the lessee's name, the lessee's bona fide residence, and either of the following:

(a) If the lessee is an individual, the lessee's Michigan driver license number or Michigan personal identification number or, if the lessee does not have a Michigan driver license or Michigan personal identification number, the lessee's mailing address.

(b) If the lessee is a firm, association, partnership, limited liability company, or corporation, the lessee's business address.

(3) The secretary of state shall maintain the information described in subsection (2) on the secretary of state's computer records.

(4) Except as provided in subsection (5), a dealer selling, leasing, or exchanging vehicles required to be titled, within 15 days after delivering a vehicle to the purchaser or lessee, and a person engaged in the sale of vessels required to be numbered by part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199, within 15 days after delivering a boat trailer weighing less than 2,500 pounds to the purchaser or lessee, shall apply to the secretary of state for a new title, if required, and transfer or secure registration plates and secure a certificate of registration for the vehicle or boat trailer, in the name of the purchaser or lessee. The dealer's license may be suspended or revoked in accordance with section 249 for failure to apply for a title when required or for failure to transfer or secure registration plates and certificate of registration within the 15 days required by this section. If the dealer or person fails to apply for a title when required, and to transfer or secure registration plates and secure a certificate of registration and pay the required fees within 15 days of delivery of the vehicle or boat trailer, a title and registration for the vehicle or boat trailer may subsequently be acquired only upon the payment of a transfer fee of \$15.00 in addition to the fees specified in section 806. The purchaser or lessee of the vehicle or the purchaser of the boat trailer shall sign the application, including, when applicable, the declaration specifying the maximum elected gross weight, as required by subsection (1)(f), and other necessary papers to enable the dealer or person to secure the title, registration plates, and transfers from the secretary of state. If the secretary of state mails or delivers a purchaser's certificate of title to a dealer, the dealer shall mail or deliver the certificate of title to the purchaser not more than 5 days after receiving the certificate of title from the secretary of state.

(5) A dealer selling or exchanging an off lease or buy back vehicle shall apply to the secretary of state for a new title for the vehicle within 15 days after it receives the certificate of title from the lessor or manufacturer under section 235 and transfer or secure registration plates and secure a certificate of registration for the vehicle in the name of the purchaser. The dealer's license may be suspended or revoked in accordance with section 249 for failure to apply for a title when required or for failure to transfer or secure registration plates and certificate of registration within the 15-day period. If the dealer or person fails to apply for a title when required, and to transfer or secure registration plates and secure a certificate of registration and pay the required fees within the 15-day time period, a title and registration for the vehicle may subsequently be acquired only upon the payment of a transfer fee of \$15.00 in addition to the fees specified in section 806. The purchaser of the vehicle shall sign the application, including, when applicable, the declaration specifying the maximum elected gross weight, as required by subsection (1)(f), and other necessary papers to enable the dealer or person to secure the title, registration plates, and transfers from the secretary of state. If the secretary of state mails or delivers a purchaser's certificate of title to a dealer, the dealer shall mail or deliver the certificate of title to the purchaser not more than 5 days after receiving the certificate of title from the secretary of state.

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

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

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

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

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

Sec. 235. (1) If the transferee of a vehicle is a new motor vehicle dealer or a used vehicle dealer that acquires the vehicle for resale, the dealer is not required to obtain a new registration of the vehicle or forward the certificate of title to the secretary of state, but shall retain and have in the dealer's immediate possession the assigned certificate of title with the odometer information properly completed. A dealer shall obtain a certificate of title for a vehicle having a salvage certificate of title before the dealer may operate the vehicle under dealer's license plates. Upon transferring title or interest to another person that is not a dealer, the dealer shall complete an assignment and warranty of title upon the certificate of title, salvage certificate of title, or dealer reassignment of title form and make an application for registration and a new title as provided in section 217(4).

(2) The dealer or transferee is liable for all damages arising from the operation of the vehicle while the vehicle is in the dealer's or transferee's possession.

(3) Upon transferring title or interest to another dealer, the dealer shall complete an assignment and warranty of title upon the certificate of title, salvage certificate of title, or dealer reassignment of title form and deliver it to the licensed dealer to which the transfer is made.

(4) The secretary of state shall prescribe the dealer reassignment of title form. The form shall contain the title number of the accompanying title; the name, address, and, if applicable, dealer license number of the transferee; the year, make, model, body type, and vehicle identification number of the vehicle; the name, address, dealer number, and signature of the transferor; an odometer mileage statement pursuant to section 233a; and any other information the secretary of state requires.

(5) This section does not prohibit a dealer from selling a buy back vehicle while the certificate of title is in the possession of a manufacturer that obtained the certificate of title under the manufacturer's buy back vehicle program. The manufacturer shall mail the certificate of title to the dealer within 5 business days after the manufacturer's receipt of a signed statement from the purchaser of the vehicle acknowledging he or she was informed by the dealer that the manufacturer acquired title to the vehicle as the result of an arbitration proceeding, pursuant to a customer satisfaction policy adopted by the manufacturer, or under 1986 PA 87, MCL 257.1401 to 257.1410, or a similar law of another state.

(6) This section does not prohibit a dealer from selling an off lease vehicle while the certificate of title is in the possession of a lessor. The lessor shall mail the certificate of title to the dealer within 21 days after the lessor receives the purchase price of the vehicle and any other fees and charges due under the lease.

Sec. 248j. (1) In addition to any other remedies provided by law, if the secretary of state determines that a person has acted as a dealer without a dealer license, he or she may issue the person a verbal or written warning or assess an administrative fine of not more than \$5,000.00 for a first violation, and not more than \$7,500.00 for each subsequent violation occurring within 7 years of a prior violation.

(2) If the secretary of state assesses an administrative fine under subsection (1), the secretary of state shall provide notice of the assessment in writing pursuant to section 212. At a minimum, the notice of assessment shall contain all of the following:

(a) A unique identification number.

(b) A description of the alleged violation that is the basis for the assessment, including the date the alleged violation occurred and a reference to the specific section or rule alleged to have been violated.

(c) The administrative fine established for the violation.

(d) A statement indicating that if the fine is not paid, the secretary of state may refer the fine to the department of treasury for collection.

(e) A statement indicating that if the alleged violation is contested, the person has a right to request an informal conference before an administrative hearing, accompanied by simple instructions informing the person how to request or waive the informal conference.

(3) Not later than 20 days after receiving the written notice of assessment, the alleged violator shall do 1 of the following:

(a) Pay the administrative fine to the secretary of state. A payment waives the person's right to an informal conference and an administrative hearing.

(b) Request the secretary of state to conduct an informal conference.

(c) Waive the right to an informal conference and request the secretary of state to conduct an administrative hearing.

(d) If the person is not a licensed dealer, pay the administrative fine to the secretary of state and submit a properly completed dealer license application to the secretary of state.

(4) A person's request for an informal conference or an administrative hearing shall comply with all of the following:

(a) Be in writing.

(b) Be postmarked or received by the department within 20 days after the date the person received the written notice of assessment.

(c) State the name, address, and telephone number of the person requesting the informal conference or administrative hearing.

(d) State the written notice of assessment's unique identification number.

(e) State the reason for the request.

(f) If the request is for an administrative hearing without an informal conference, state the person is waiving his or her right to an informal conference.

(5) If the secretary of state receives a request for an informal conference or an administrative hearing that meets all of the conditions prescribed in subsection (4), the secretary of state shall schedule an informal conference or an administrative hearing, as applicable. If the request fails to meet all of the conditions prescribed in subsection (4), the secretary of state may in writing deny the request. A denial shall be served on the person by first-class mail and shall do both of the following:

(a) State the reason for the denial.

(b) Grant the person 14 days to submit a valid request to the secretary of state.

(6) The secretary of state shall conduct an informal conference under this section within 45 days after receiving a valid request for the conference. The secretary of state shall serve upon the alleged violator, by first-class mail not less than 5 days before the conference, a written notice that includes time, place, and date of the informal conference. The notice shall state that the alleged violator may be represented by an attorney at the informal conference.

(7) After the informal conference, the secretary of state shall evaluate the validity of the assessment of the administrative fine and affirm, modify, or dismiss the assessment. In making the evaluation, the secretary of state may consider 1 or more of the following:

(a) Whether there is reason to believe the alleged violation did in fact occur.

(b) The severity of the alleged violation and its impact on the public.

(c) The number of prior or related violations by the person.

(d) The likelihood of future compliance by the person.

(e) Any other considerations the secretary of state considers appropriate.

(8) Within 20 days after conducting the informal conference, the secretary of state shall serve upon the person by first-class mail a written statement describing whether the assessment of the administrative fine is affirmed, modified,

or dismissed and the basis of the action. If the assessment is affirmed or modified, this statement shall also advise the person that he or she will receive a notice of hearing where the validity of the assessment may be contested or he or she may immediately pay the fine to the secretary of state and that payment of the fine will prevent scheduling of an administrative hearing.

(9) A notice of hearing under this section shall be served on the person by first-class mail not less than 5 days before the date scheduled for the administrative hearing and, at a minimum, advise the person of all of the following:

(a) The time, place, and date of hearing.

(b) That an impartial hearing officer will conduct the hearing and allow the person an opportunity to examine the secretary of state's evidence and present evidence in person or in writing.

(c) That the person has a right to be represented by an attorney at the administrative hearing.

(d) The common reasons why the secretary of state could dismiss an assessment of an administrative fine.

(e) That the hearing officer conducting the administrative hearing will be authorized to do all of the following:

(i) Affirm, modify, or dismiss the assessment of an administrative fine.

(ii) Correct any errors in the department's records that relate directly to the assessment.

(iii) Refer or not refer the fine to the department of treasury for collection.

(iv) Take or order any other action or resolution considered appropriate by the hearing officer.

(f) That if the department of treasury takes enforcement action against the person, he or she may seek a review in the court of claims.

(10) The secretary of state shall conduct an administrative hearing under this section pursuant to the contested case provisions of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If an administrative fine assessed under this section is affirmed by the decision of the hearing officer, the hearing officer may assess the person costs of not more than \$500.00, to reimburse the secretary of state for proving the validity of the alleged violation, in addition to any other penalties, sanctions, or costs imposed as provided by law.

(11) An administrative fine assessed under this section becomes final upon the first to occur of the following:

(a) The secretary of state does not receive a valid request for an informal conference or an administrative hearing within the time period described in subsection (4).

(b) Twenty days after a person waives his or her right to an administrative hearing.

(c) An administrative hearing decision is served upon the person.

(12) After a person pays the secretary of state the fine imposed, the secretary of state shall forward the money to the department of treasury for deposit in a separate fund within the general fund. Upon appropriation, this money shall be used first to defray the expense of the secretary of state in administering this chapter.

(13) If an administrative fine assessed under this section is not paid within 60 days after it becomes final, the secretary of state may refer the matter to the department of treasury for collection as a state debt through the offset of state tax refunds and may use the services of the department of treasury to levy the salary, wages, or other income or assets of the person as provided by law.

(14) Payment of an administrative fine assessed under this section does not constitute an admission of responsibility or guilt by the person. Payment of an administrative fine assessed under this section does not prevent the secretary of state from charging a violation described in the assessment of the administrative fine in a subsequent or concurrent contested case proceeding conducted by the secretary of state pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(15) If the person submits a properly completed application and appropriate fee for a dealer license within 20 days after an administrative fine under subsection (1) is assessed, and if the secretary of state issues the person a dealer license within 45 days of receiving the properly completed application and fee, the secretary of state shall reduce the amount of the administrative fine by 50%.

(16) The secretary of state shall serve a notice, denial, decision, or statement under this section in compliance with section 212.

(17) An informal conference under this section is not a compliance conference under section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292.

Sec. 310. (1) The secretary of state shall issue an operator's license to each person licensed as an operator and a chauffeur's license to each person licensed as a chauffeur. An applicant for a motorcycle indorsement under section 312a or a vehicle group designation or indorsement shall first qualify for an operator's or chauffeur's license before the indorsement or vehicle group designation application is accepted and processed. Beginning on and after July 1, 2003, an original license or the first renewal of an existing license issued to a person less than 21 years of age shall be portrait or vertical in form and an original license or the first renewal of an existing license issued to a person 21 years of age or over shall be landscape or horizontal in form.

(2) The license issued under subsection (1) shall contain all of the following information:

- (a) The distinguishing number permanently assigned to the licensee.
- (b) The full name, date of birth, address of residence, height, eye color, sex, an image, and the signature of the licensee.
- (c) An indication that the license contains 1 or more of the following:
 - (i) The blood type of the licensee.
 - (ii) Immunization data of the licensee.
 - (iii) Medication data of the licensee.
 - (iv) A statement that the licensee is deaf.
 - (v) A statement that the licensee is an organ and tissue donor pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.
 - (vi) Emergency contact information of the licensee.
 - (vii) A sticker or decal as specified by the secretary of state to indicate that the licensee has designated 1 or more patient advocates in accordance with section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506, or a statement that the licensee carries an emergency medical information card.
- (d) If the licensee has made a statement described in subdivision (c)(v), the signature of the licensee following the indication of his or her organ and tissue donor intent identified in subdivision (c)(v), along with the signature of at least 1 witness.
- (e) The sticker or decal described in subdivision (c)(vii) may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing the emergency medical information card, but shall meet the specifications of the secretary of state. The emergency medical information card may contain the information described in subdivision (c)(vi), information concerning the licensee's patient advocate designation, other emergency medical information, or an indication as to where the licensee has stored or registered emergency medical information.
- (f) Beginning July 1, 2003, in the case of a licensee who is less than 18 years of age at the time of issuance of the license, the date on which the licensee will become 18 years of age and 21 years of age.
- (g) Beginning July 1, 2003, in the case of a licensee who is at least 18 years of age but less than 21 years of age at the time of issuance of the license, the date on which the licensee will become 21 years of age.
- (3) Except as otherwise required in this chapter, other information required on the license pursuant to this chapter may appear on the license in a form prescribed by the secretary of state.
- (4) The license shall not contain a fingerprint or finger image of the licensee.
- (5) A digitized license may contain an identifier for voter registration purposes. The digitized license may contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the person's driver license number, birth date, license expiration date, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the person's name, address, driving record, or other personal identifier. The license shall identify the encoded information.
- (6) The license shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the license without ready detection. In addition, a license with a vehicle group designation shall contain the information required pursuant to 49 C.F.R. part 383.
- (7) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates a license photograph, the negative of the photograph, an image, a license, or the electronic data contained on a license or a part of a license or who uses a license, an image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated is subject to 1 of the following:
 - (a) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for 10 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 10 years or a fine of not more than \$20,000.00, or both.
 - (b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by imprisonment for 6 months or more, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$10,000.00, or both.
 - (c) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a misdemeanor punishable by imprisonment for less than 6 months, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.
- (8) Except as provided in subsection (16), a person who sells, or who possesses with the intent to deliver to another, a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image,

license, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(9) Except as provided in subsection (16), a person who is in possession of 2 or more reproduced, altered, counterfeited, forged, or duplicated license photographs, negatives of the photograph, images, licenses, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(10) Except as provided in subsection (16), a person who is in possession of a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(11) Subsections (7)(a) and (b), (8), and (9) do not apply to a minor whose intent is to violate section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(12) The secretary of state, upon determining after an examination that an applicant is mentally and physically qualified to receive a license, may issue to that person a temporary driver's permit entitling the person while having the permit in his or her immediate possession to drive a motor vehicle upon the highway for a period not exceeding 60 days before issuance to the person of an operator's or chauffeur's license by the secretary of state.

(13) An operator or chauffeur may indicate on the license in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, or a statement that the licensee is deaf, or a statement that the licensee is an organ and tissue donor and has made an anatomical gift pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(14) An operator or chauffeur may indicate on the license in a place designated by the secretary of state that he or she has designated a patient advocate in accordance with sections 5506 to 5513 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5513.

(15) If the applicant provides proof to the secretary of state that he or she is a minor who has been emancipated pursuant to 1968 PA 293, MCL 722.1 to 722.6, the license shall bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

(16) Subsections (8), (9), and (10) do not apply to a person who is in possession of 1 or more photocopies, reproductions, or duplications of a license to document the identity of the licensee for a legitimate business purpose.

Sec. 312e. (1) Except as otherwise provided in this section, a person, before operating a commercial motor vehicle, shall obtain the required vehicle group designation as follows:

(a) A person, before operating a combination of vehicles with a gross combination weight rating of 26,001 pounds or more including a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds, shall procure a group A vehicle designation on his or her operator's or chauffeur's license. Unless an indorsement or the removal of restrictions is required, a person licensed to operate a group A vehicle may operate a group B or C vehicle without taking another test.

(b) A person, before operating a vehicle having a gross vehicle weight rating of 26,001 pounds or more, shall procure a group B vehicle designation on his or her operator's or chauffeur's license. Unless an indorsement or the removal of restrictions is required, a person licensed to operate a group B vehicle may operate a group C vehicle without taking another test.

(c) A person, before operating a single vehicle having a gross vehicle weight rating under 26,001 pounds or a vehicle having a gross vehicle weight rating under 26,001 pounds towing a trailer or other vehicle and carrying hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199, or designed to transport 16 or more passengers including the driver, shall procure a group C vehicle designation and a hazardous material or passenger vehicle indorsement on his or her operator's or chauffeur's license.

(2) An applicant for a vehicle group designation shall take knowledge and driving skills tests that comply with minimum federal standards prescribed in 49 C.F.R. part 383 as required under this act.

(3) The license shall be issued, suspended, revoked, canceled, or renewed in accordance with this act.

(4) Except as provided in this subsection, all of the following apply:

(a) If a person operates a group B passenger vehicle while taking his or her driving skills test for a P indorsement, he or she is restricted to operating only group B or C passenger vehicles under that P indorsement.

(b) If a person operates a group C passenger vehicle while taking his or her driving skills test for a P indorsement, he or she is restricted to operating only group C passenger vehicles under that P indorsement.

(c) A person who fails the air brake portion of the written or driving skills test provided under section 312f or who takes the driving skills test provided under that section in a commercial motor vehicle that is not equipped with air brakes shall not operate a commercial motor vehicle equipped with air brakes.

(5) A person, before operating a commercial motor vehicle, shall obtain required vehicle indorsements as follows:

(a) A person, before operating a commercial motor vehicle pulling double trailers, shall procure the appropriate vehicle group designation and a T vehicle indorsement under this act.

(b) A person, before operating a commercial motor vehicle that is a tank vehicle, shall procure the appropriate vehicle group designation and an N vehicle indorsement under this act.

(c) A person, before operating a commercial motor vehicle carrying hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199, shall procure the appropriate vehicle group designation and an H vehicle indorsement under this act.

(d) A person, before operating a commercial motor vehicle that is a tank vehicle carrying hazardous material, shall procure the appropriate vehicle group designation and both an N and H vehicle indorsement, which shall be designated by the code letter X on the person's operator's or chauffeur's license.

(e) A person, before operating a vehicle designed to transport 16 or more passengers including the driver, shall procure the appropriate vehicle group designation and a P vehicle indorsement under this act. An applicant for a P vehicle indorsement shall take the driving skills test in a vehicle designed to transport 16 or more passengers including the driver.

(6) An applicant for an indorsement shall take the knowledge and driving skills tests described and required pursuant to 49 C.F.R. part 383.

(7) The holder of an unexpired operator's or chauffeur's license may be issued a vehicle group designation and indorsement valid for the remainder of the license upon meeting the qualifications of section 312f and payment of the original vehicle group designation fee of \$20.00 and an indorsement fee of \$5.00 per indorsement, and a corrected license fee of \$6.00. A person required to procure an F vehicle indorsement pursuant to subsection (9) shall pay an indorsement fee of \$5.00.

(8) Except as otherwise provided in subsections (9) and (10), this section does not apply to a driver or operator of a vehicle under all of the following conditions:

(a) The vehicle is controlled and operated by a farmer or an employee or family member of the farmer.

(b) The vehicle is used to transport agricultural products, farm machinery, farm supplies, or a combination of these items, to or from a farm.

(c) The vehicle is not used in the operation of a common or contract motor carrier.

(d) The vehicle is operated within 150 miles of the farm.

(9) A person, before driving or operating a combination of vehicles having a gross vehicle weight rating of 26,001 pounds or more on the power unit that is used as described in subsection (8)(a) to (d), shall obtain an F vehicle indorsement. The F vehicle indorsement shall be issued upon successful completion of a knowledge test only.

(10) A person, before driving or operating a single vehicle truck having a gross vehicle weight rating of 26,001 pounds or more or a combination of vehicles having a gross vehicle weight rating of 26,001 pounds or more on the power unit that is used as described in subsection (8)(a) to (d) for carrying hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199, shall successfully complete both a knowledge test and a driving skills test. Upon successful completion of the knowledge test and driving skills test, the person shall be issued the appropriate vehicle group designation and any vehicle indorsement necessary under this act.

(11) This section does not apply to a police officer operating an authorized emergency vehicle or to a firefighter operating an authorized emergency vehicle who has met the driver training standards of the Michigan fire fighters' training council.

(12) This section does not apply to a person operating a motor home or a vehicle used exclusively to transport personal possessions or family members for nonbusiness purposes.

(13) The money received and collected under subsection (7) for a vehicle group designation or indorsement shall be deposited in the state treasury to the credit of the general fund. The secretary of state shall refund out of the fees collected to each county or municipality acting as an examining officer or examining bureau \$3.00 for each applicant examined for a first designation or indorsement to an operator's or chauffeur's license and \$1.50 for each renewal designation or indorsement to an operator's or chauffeur's license, whose application is not denied, on the condition that the money refunded shall be paid to the county or local treasurer and is appropriated to the county, municipality, or officer or bureau receiving that money for the purpose of carrying out this act.

(14) Notwithstanding any other provision of this section, a person operating a vehicle described in subsections (8) and (9) is subject to the provisions of sections 303 and 319b.

Sec. 401. (1) This section shall not be construed to limit the right of a person to bring a civil action for damages for injuries to either person or property resulting from a violation of this act by the owner or operator of a motor vehicle or his or her agent or servant. The owner of a motor vehicle is liable for an injury caused by the negligent operation of the motor vehicle whether the negligence consists of a violation of a statute of this state or the ordinary care standard required by common law. The owner is not liable unless the motor vehicle is being driven with his or her express or implied consent or knowledge. It is presumed that the motor vehicle is being driven with the knowledge and consent of the owner if it is driven at the time of the injury by his or her spouse, father, mother, brother, sister, son, daughter, or other immediate member of the family.

(2) A person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle under a lease providing for the use of the motor vehicle by the lessee for a period that is greater than 30 days, or a dealer acting as agent for that lessor, is not liable at common law for damages for injuries to either person or property resulting from the operation of the leased motor vehicle, including damages occurring after the expiration of the lease if the vehicle is in the possession of the lessee.

(3) Notwithstanding subsection (1), a person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle under a lease providing for the use of the motor vehicle by the lessee for a period of 30 days or less is liable for an injury caused by the negligent operation of the leased motor vehicle only if the injury occurred while the leased motor vehicle was being operated by an authorized driver under the lease agreement or by the lessee's spouse, father, mother, brother, sister, son, daughter, or other immediate family member. Unless the lessor, or his or her agent, was negligent in the leasing of the motor vehicle, the lessor's liability under this subsection is limited to \$20,000.00 because of bodily injury to or death of 1 person in any 1 accident and \$40,000.00 because of bodily injury to or death of 2 or more persons in any 1 accident.

(4) A person engaged in the business of leasing motor vehicles as provided under subsection (3) shall notify a lessee that the lessor is liable only up to the maximum amounts provided for in subsection (3), and only if the leased motor vehicle was being operated by the lessee or other authorized driver or by the lessee's spouse, father, mother, brother, sister, son, daughter, or other immediate family member, and that the lessee may be liable to the lessor up to amounts provided for in subsection (3), and to an injured person for amounts awarded in excess of the maximum amounts provided for in subsection (3).

(5) Subsections (3) and (4) shall not be construed to expand or reduce, except as otherwise provided by this act, the liability of a person engaged in the business of leasing motor vehicles or to impair that person's right to indemnity or contribution, or both.

(6) As used in subsections (3), (4), and (5), "motor vehicle" means a self-propelled device by which a person or property may be transported upon a public highway. Motor vehicle does not include a bus, power shovel, road machinery, agricultural machinery, or other machinery or vehicle not designed primarily for highway transportation. Motor vehicle also does not include a device that moves upon or is guided by a track.

(7) A lessee in possession of an off lease vehicle, and not the dealer of the vehicle, is liable as the owner of the vehicle for any damages awarded for an injury to a person or property resulting from the operation of the vehicle. The dealer of an off lease vehicle may be liable at common law for damages awarded for an injury to a person or property resulting from the operation of the vehicle only if the dealer is in possession of the vehicle and the certificate of title and has acknowledged possession of the certificate of title to the lessor.

Enacting section 1. This amendatory act takes effect January 1, 2003.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.