(c) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person certified under this part, except a project that is exempt from this part.

(d) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person who, through their company name or promotional literature, represents, advertises, or holds themselves out to be in the business of performing lead-based paint activities except a project that is exempt from this part.

(e) A project resulting in the permanent elimination of lead-based paint hazards that is conducted in response to a state or local government abatement order.

(2) Abatement does not include any of the following:

(a) Renovation, remodeling, landscaping, or other activity, if the activity is not designed to permanently eliminate lead-based paint hazards, but is instead designed to repair, restore, or remodel a structure, target housing, or dwelling even though the activity may incidentally result in a reduction or elimination of a lead-based paint hazard.

(b) An interim control, operation, and maintenance activity, or other measure or activity designed to temporarily, but not permanently, reduce a lead-based paint hazard.

(c) Any lead-based paint activity performed by the owner of an owner-occupied residential dwelling or an owner-occupied multifamily dwelling containing 4 or fewer units if the activity is performed only in that owner-occupied unit of the multifamily dwelling.

(3) "Accredited training program" means a training program that has been accredited by the department under this part to provide training for individuals engaged in lead-based paint activities.

(4) "Adequate quality control" means a plan or design that ensures the authenticity, integrity, and accuracy of a sample including, but not limited to, a dust sample, a soil or paint chip sample, or a paint film sample. Adequate quality control also includes a provision in a plan or design described in this subsection for representative sampling.

333.5454 Definitions; C.

Sec. 5454. (1) "Certified abatement worker" means an individual who has been trained to perform abatements by an accredited training program and who is certified by the department under this part to perform abatement.

(2) "Certified clearance technician" means an individual who has completed an approved training course and been certified by the department under this part to conduct clearance testing following interim controls.

(3) "Certified firm" means a person that performs a lead-based paint activity for which the department has issued a certificate of approval under this part.

(4) "Certified inspector" means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and take samples for the presence of lead in paint, dust, and soil for the purposes of abatement clearance testing.

(5) "Certified project designer" means an individual who has been trained by an accredited training program and certified by the department under this part to prepare abatement project designs, occupant protection plans, and abatement reports.

(6) "Certified risk assessor" means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and risk assessments and to take samples for the presence of lead in paint, dust, and soil for the purposes of abatement clearance testing.

(7) "Certified supervisor" means an individual who has been trained by an accredited training program and certified by the department under this part to supervise and conduct abatements and to prepare occupant protection plans and abatement reports.

(8) "Child occupied facility" means a building or portion of a building constructed before 1978 that is visited regularly by a child who is 6 years of age or less, on at least 2 different days within a given week, if each day's visit is at least 3 hours and the combined weekly visit is at least 6 hours in length, and the combined annual visits are at least 60 hours in length. Child occupied facility includes, but is not limited to, a day-care center, a preschool, and a kindergarten classroom.

333.5455 Definitions; C.

Sec. 5455. (1) "Clearance levels" means the values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement as listed in rules promulgated by the department.

(2) "Clearance professional" means 1 or more of the following individuals when performing clearance testing:

(a) A certified inspector.

(b) A certified risk assessor.

(c) A certified clearance technician.

(3) "Common area" means a portion of a building that is generally accessible to all occupants of the building. Common area includes, but is not limited to, a hallway, a stairway, a laundry and recreational room, a playground, a community center, a garage, and a boundary fence.

(4) "Component" or "building component" means a specific design or structural element or fixture of a building, residential dwelling, or child occupied facility that is distinguished by its form, function, and location. Component or building component, includes but is not limited to, a specific interior or exterior design or structural element or fixture.

(5) "Containment" means a process to protect workers and the environment by controlling exposure to a dust lead hazard and debris created during an abatement.

(6) "Course agenda" means an outline of the key topics to be covered during an accredited training program, including the time allotted to teach each topic.

(7) "Course test" means an evaluation of the overall effectiveness of the accredited training program by testing a trainee's knowledge and retention of the topics covered during the accredited training program.

(8) "Course test blueprint" means written documentation identifying the proportion of course test questions devoted to each major topic in the accredited training program curriculum.

333.5456 Definitions; D, E.

Sec. 5456. (1) "Department" means the department of community health.

(2) "Deteriorated paint" means paint or other surface coating that is cracking, flaking, chipping, peeling, or otherwise damaged or separating from the substrate of a building component.

(3) "Discipline" means 1 of the specific types or categories of lead-based paint activities identified in this part for which an individual may receive training from an accredited training program and become certified by the department.

(4) "Distinct painting history" means the application history, as indicated by its visual appearance or a record of application, over time of paint or other surface coatings to a component or room.

(5) "Documented methodology" means a method or protocol used to do either or both of the following:

(a) Sample and test for the presence of lead in paint, dust, and soil.

(b) Perform related work practices as described in rules promulgated under this part.

(6) "Dust lead hazard" means surface dust in a residential dwelling or child occupied facility that contains a concentration of lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

(7) "Elevated blood level" or "EBL" means for purposes of lead abatement an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 ug/dl, micrograms of lead per deciliter of whole blood, for a single venous test or of 15-19 ug/dl in 2 consecutive tests taken 3 to 4 months apart. For purposes of case management of children 6 years of age or less, elevated blood level means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 10 ug/dl.

(8) "Encapsulant" means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating, with or without reinforcement materials, or an adhesively bonded covering material.

(9) "Encapsulation" means the application of an encapsulant.

(10) "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

(11) "EPA" means the United States environmental protection agency.

333.5457 Definitions; G to I.

Sec. 5457. (1) "Guest instructor" means an individual designated by the manager or principal instructor of an accredited training program to provide instruction specific to the lecture, hands-on activities, or work practice components of a course in the accredited training program.

(2) "Hands-on skills assessment" means an evaluation that tests a trainee's ability to satisfactorily perform the work practices, work procedures, or any other skill taught in an accredited training program.

(3) "Hazardous waste" means waste as defined in 40 C.F.R. 261.3.

(4) "Inspection" means a surface-by-surface investigation in target housing or a child occupied facility to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

(5) "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards including, but not limited to, specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

333.5458 Definitions; L.

Sec. 5458. (1) "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5% by weight.

(2) "Lead-based paint activity" means inspection, risk assessment, and abatement in target housing and child occupied facilities or in any part thereof.

(3) "Lead-based paint hazard" means any of the following conditions:

(a) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface are equal to or greater than the dust lead hazard levels identified in rules promulgated under this part.

(b) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component.

(c) Any chewable lead-based painted surface on which there is evidence of teeth marks.

(d) Any other deteriorated lead-based paint in or on any residential building or child occupied facility.

(e) Surface dust in a residential dwelling or child occupied facility that contains lead in a mass-per-area concentration equal to or exceeding the levels established by rules promulgated under this part.

(f) Bare soil on residential real property or property of a child occupied facility that contains lead equal to or exceeding levels established by rules promulgated under this part.

(4) "Lead-based paint investigation" means an activity designed to determine the presence of lead-based paint or lead-based paint hazards in target housing and child occupied facilities.

(5) "Living area" means an area of a residential dwelling used by 1 or more children age 6 and under including, but not limited to, a living room, kitchen area, den, playroom, and a children's bedroom.

333.5459 Definitions; M to S.

Sec. 5459. (1) "Multifamily dwelling" means a structure that contains more than 1 separate residential dwelling unit and that is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(2) "Paint in poor condition" means 1 or more of the following:

(a) More than 10 square feet of deteriorated paint on an exterior component with a large surface area.

(b) More than 2 square feet of deteriorated paint on an interior component with large surface areas.

(c) More than 10% of the total surface area of the component is deteriorated on an interior or exterior component with a small surface area.

(3) "Permanently covered soil" means soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials including, but not limited to, pavement or concrete but not including grass, mulch, or other landscaping materials.

(4) "Person" means that term as defined in section 1106 but including the state and a political subdivision of the state.

(5) "Principal instructor" means the individual who has the primary responsibility for organizing and teaching a particular course in an accredited training program.

(6) "Recognized laboratory" means an environmental laboratory recognized by the EPA pursuant to section 405 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2685, as being capable of performing an analysis for lead compounds in paint, soil, and dust.

(7) "Reduction" means a measure designed to reduce or eliminate human exposure to a lead-based paint hazard through methods including, but not limited to, interim controls and abatement.

(8) "Residential dwelling" means either of the following:

(a) A detached single family dwelling unit, including, but not limited to, attached structures such as porches and stoops and accessory structures such as garages, fences, and nonagricultural or noncommercial outbuildings.

(b) A building structure that contains more than 1 separate residential dwelling unit that is used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(9) "Risk assessment" means both of the following:

(a) An on-site investigation in target housing or a child occupied facility to determine the existence, nature, severity, and location of a lead-based paint hazard.

(b) The provision of a report by the person conducting the risk assessment explaining the results of the investigation and options for reducing the lead-based paint hazard.

(10) "Soil lead hazard" means bare soil on a residential dwelling or on the property of a child occupied facility that contains lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

333.5460 Definitions; T to V.

Sec. 5460. (1) "Target housing" means housing constructed before 1978, except any of the following:

(a) Housing for the elderly or persons with disabilities, unless any 1 or more children age 6 years or less resides or is expected to reside in that housing.

(b) A 0-bedroom dwelling.

(c) An unoccupied dwelling unit pending demolition, provided the dwelling unit remains unoccupied until demolition.

(2) "Third party examination" means the examination for certification under this part in the disciplines of clearance technician, inspector, risk assessor, worker, and supervisor offered and administered by a party other than an accredited training program.

(3) "Training curriculum" means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

(4) "Training hour" means not less than 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, or hands-on experience or a combination of those activities.

(5) "Training manager" means the individual responsible for administering an accredited training program and monitoring the performance of principal instructors and guest instructors.

(6) "Visual inspection for clearance testing" means the visual examination of a residential dwelling or a child occupied facility following an abatement designed to determine whether the abatement has been successfully completed.

(7) "Visual inspection for risk assessment" means the visual examination of a residential dwelling or a child occupied facility to determine the existence of deteriorated paint or other potential sources of lead-based paint hazards.

333.5462 Lead-based paint activities; training program; accreditation generally.

Sec. 5462. (1) A person may seek accreditation for a training program to offer courses in lead-based paint activities in 1 or more of the following disciplines:

(a) Inspector.

(b) Risk assessor.

(c) Supervisor.

(d) Project designer.

(e) Abatement worker/laborer.

(f) Clearance technician.

(2) A person may also seek accreditation for a training program to offer refresher courses for each of the disciplines described in subsection (1).

(3) A person shall not provide, offer, or claim to provide EPA-accredited courses in lead-based paint activities without applying for and receiving accreditation from the department under this part.

(4) A person seeking accreditation for a training program shall submit a written application to the department containing all of the following:

(a) If the applicant is a sole proprietorship or corporation, its "doing business as" or corporate identification number.

(b) The fee required by section 5471.

(c) The name of each principal position, partner, shareholder, member, or owner.

(d) The training program's proposed name, address, and telephone number.

(e) A list of courses and disciplines for which it is seeking accreditation.

(f) A statement signed by the training program manager certifying that the training program meets the requirements established by this part and the rules promulgated under this part.

(g) A copy of the student and instructor manuals or other materials to be used for each course.

(h) A copy of the course agenda for each course.

(i) A description of the facilities and equipment to be used for lecture and hands-on training.

(j) A copy of the course test blueprint for each course.

(k) A description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course.

(*l*) A copy of the quality control plan as defined in rules promulgated by the department.

(5) The department shall approve an application for accreditation of a training program within 180 days after receiving a complete application from the training program if the department determines that the applicant meets the requirements of this part and the rules promulgated under this part. In the case of approval, the department shall send a certificate of accreditation to the applicant. Before disapproving an application, the department may advise the applicant as to specific inadequacies in the application for accreditation or specific instances where the training program does not meet the requirements of this part or the rules promulgated under this part, or both. The department may request additional information or materials from the training program under this section.

If the department disapproves a training program's application for accreditation, the applicant may reapply for accreditation at any time.

(6) A training program shall meet all of the following requirements in order to become accredited to offer courses in lead-based paint activities:

(a) Employ a training manager who has training, education, and experience as described in rules promulgated by the department.

(b) Provide that the training manager described in subdivision (a) designate a qualified principal instructor for each course who has training, education, and experience as described in rules promulgated by the department.

(c) Provide that the principal instructor described in subdivision (b) be responsible for the organization of the course and oversight of the teaching of all course material. A training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(7) The following documents are recognized by the department as evidence that a training manager or a principal instructor has the education, work experience, training requirements, or demonstrated experience specifically listed in rules promulgated by the department, which documentation is not required to be submitted with the accreditation application but, if not submitted, must be retained by the training program as required by the record-keeping requirements contained in this part:

(a) An official academic transcript or diploma as evidence of meeting the education requirements.

(b) A resume, letter of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) A certificate from a train-the-trainer course or a lead-specific training course, or both, as evidence of meeting the training requirements.

(8) A training program accredited under this part shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities including, but not limited to, providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities of the training program, as needed.

333.5463 Training program; training hour requirements for accreditation in certain disciplines; rules; course test; hands-on skills assessment; course completion certificates; quality control plan; teaching work practice standards; duties of training manager.

Sec. 5463. (1) A training program accredited under section 5462 shall provide training courses that meet the following training hour requirements in order to become accredited in the following disciplines:

(a) An inspector course shall last a minimum of 24 training hours, with a minimum of 8 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the inspector course.

(b) A risk assessor course shall last a minimum of 16 training hours, with a minimum of 4 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the risk assessor course.

(c) A supervisor course shall last a minimum of 32 training hours, with a minimum of 8 hours devoted to hands-on activities. The department shall promulgate rules to determine the minimum curriculum requirements for the supervisor course.

(d) A project designer course shall last a minimum of 8 training hours. The department shall promulgate rules to determine the minimum curriculum requirements for the project designer course.

(e) An abatement worker course shall last a minimum of 16 training hours, with a minimum of 8 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the abatement worker course.

(f) A clearance technician course shall last a minimum of 8 training hours, with a minimum of 2 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the clearance technician course. Until rules are promulgated, a clearance technician course shall use the curriculum for the lead sampling technician course approved by the EPA under subpart Q of part 745 of title 40 of the code of federal regulations.

(2) The department may promulgate rules to modify 1 or more of the requirements imposed under subsection (1) if changes are needed to comply with federal mandates or for another reason considered appropriate by the department.

(3) For each course offered, the training program shall conduct a course test at the completion of the course and, if applicable, a hands-on skills assessment. Each individual enrolled in the training program must successfully complete the hands-on skills assessment, if conducted for that course, and receive a passing score on the course test in order to pass a course.

(4) The training manager shall maintain the validity and integrity of a hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in rules promulgated under this section and the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

(5) A training program's course test shall be developed in accordance with the test blueprint submitted with the training program accreditation application.

(6) A training program shall issue course completion certificates to each individual who passes the training course. The course completion certificates shall include:

(a) The name and address of the individual, along with a unique identification number.

(b) The name of the particular course that the individual passed.

(c) Dates of course completion and test passage.

(d) Expiration date of course certificate.

(e) The name, address, and telephone number of the training program.

(7) The training manager shall develop and implement a quality control plan designed to maintain and improve the quality of the training program. The quality control plan shall contain at least both of the following elements:

(a) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.

(b) Procedures for the training manager's annual review of each principal instructor's competence.

(8) The training program shall offer courses that teach the work practice standards for conducting lead-based paint activities and other standards developed by the EPA pursuant to title IV of the toxic substances control act and considered appropriate or necessary by the department. The work practice standards shall be taught in the appropriate

courses to provide trainees with the knowledge needed to perform the lead-based paint activities.

(9) The training manager shall ensure that the training program complies at all times with all of the requirements of this section and the rules promulgated under this section.

(10) The training manager shall allow the department to audit the training program to verify the contents of the application for accreditation.

333.5467 Accreditation training program; availability and retention of records; notice of change of address.

Sec. 5467. (1) An accredited training program shall maintain, and make available to the department, upon request, all of the following records:

(a) Each document that demonstrates the qualifications of a training manager or a principal instructor.

(b) Current curriculum and course materials and documents reflecting changes made to these materials.

(c) The course test blueprint.

(d) Information regarding how the hands-on skills assessment is conducted including, but not limited to, all of the following:

(*i*) The person conducting the hands-on skills assessment.

(*ii*) The method of grading the hands-on skills.

(*iii*) A description of the facilities used.

(*iv*) The pass/fail rate.

(e) The quality control plan.

(f) The results of the students' hands-on skills assessments and course tests and a record of each student's participation, including name, social security number, and score, within 10 calendar days of the last day of the course taken.

(g) Any other material that was submitted to the department as part of the program's application for accreditation.

(2) A training program shall retain the records described in subsection (1) for at least 3-1/2 years at the address specified on the training program accreditation application.

(3) The training program shall notify the department in writing within 30 days of changing the address specified on its training program accreditation application or transferring the records from that address.

333.5468 Certification to engage in lead-based paint activities; fees; application; requirements for certification in specific discipline.

Sec. 5468. (1) An individual seeking certification by the department to engage in lead-based paint activities shall pay the appropriate fees required under section 5471 and submit an application to the department demonstrating either of the following:

(a) Compliance with the requirements of this part and the rules promulgated under this part for the particular discipline for which certification is sought.

(b) A copy of a valid lead-based paint activities certification or its equivalent, as determined by the department, from a training program that has been authorized by the EPA pursuant to 40 C.F.R. part 745 along with proof of the applicant's third party examination results.

(2) Following the submission of an application demonstrating that the requirements of this part and the rules promulgated under this part have been met, the department shall certify an applicant in 1 or more of the following disciplines:

(a) Inspector.

(b) Risk assessor.

(c) Supervisor.

(d) Project designer.

(e) Abatement worker.

(f) Clearance technician.

(3) Upon receiving the department certification in 1 or more of the disciplines described in subsection (2), an individual conducting lead-based paint activities shall comply with the work practice standards for performing that discipline as established under this part and the rules promulgated under this part.

(4) An individual shall not conduct a lead-based paint activity unless that individual is certified by the department under this section in the appropriate discipline.

(5) An individual shall do all of the following in order to become certified by the department as an inspector, risk assessor, abatement worker, or supervisor:

(a) Successfully complete a course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Pass the third party exam in the appropriate discipline.

(c) Meet the experience or education requirements, or both, as described in rules promulgated by the department.

(6) After an individual passes the appropriate certification exam and submits an application demonstrating that he or she meets the appropriate training, education, and experience requirements and passes the appropriate certification exam, the department shall issue a certificate to the individual in the specific discipline for which certification is sought. To maintain certification, an individual must be recertified pursuant to this part.

(7) An individual shall pass the third party exam within 6 months after receiving a course completion certificate in order to be eligible for certification. An individual is not eligible to take the third party exam more than 3 times within the 6 months after receiving a course completion certificate. An individual who does not pass the third party exam after 3 attempts shall repeat the appropriate course from an accredited training program in order to be eligible to retake the exam.

(8) An individual shall do both of the following in order to become certified by the department as a project designer:

(a) Successfully complete a course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Meet the experience or education requirements, or both, as described in rules promulgated by the department.

(9) After an individual has successfully completed the appropriate training courses, applied to the department, and met the requirements of this part and the rules promulgated under this part, the department shall issue a certificate to the individual in the discipline of project designer. To maintain certification, the individual must be periodically recertified pursuant to this part.

(10) An individual who received training in a lead-based paint activity between October 1, 1990 and March 1, 1999 and an individual who has received lead-based paint

activities training at an EPA-authorized accredited training program are eligible for certification by the department under rules promulgated by the department.

(11) In order to maintain certification in a particular discipline, a certified individual shall apply to and be recertified in that discipline by the department every 3 years.

(12) An individual shall do both of the following in order to become a certified clearance technician:

(a) Successfully complete an approved course for the discipline of clearance technician and receive a course completion certificate.

(b) Pass the third party exam for the discipline of clearance technician.

333.5471 Training program or refresher courses; fees.

Sec. 5471. (1) Subject to subsection (7), fees for a person accredited or seeking accreditation for a training program offering courses or refresher courses in lead-based paint abatement are as follows:

(a) Initial application processing fee ..... $100.00.

(b) Initial accreditation fee ..... $475.00 per discipline.

(c) Reaccreditation fee, annual ..... $265.00 per discipline.

(2) Fees for an individual certified or seeking certification to engage in lead-based paint abatement are as follows:

(a) Initial application processing fee ..... $ 25.00.

(b) Certification fee, per year:

(*i*) Inspector ..... $150.00.

(*ii*) Risk assessor ..... $150.00.

(*iii*) Supervisor ..... $ 50.00.

(*iv*) Project designer ..... $150.00.

(*v*) Abatement worker/laborer ..... $ 25.00.

(*vi*) Clearance technician ..... $ 50.00.

(3) Fees for a person certified or seeking certification to engage in lead-based paint abatement are as follows:

(a) Initial application processing fee ..... $100.00.

(b) Certification fee, per year ..... $220.00.

(4) If the department increases fees under subsection (5), the increase shall be effective for that fiscal year. The increased fees shall be used by the department as the basis for calculating fee increases in subsequent fiscal years.

(5) By August 1 of each year, the department shall provide to the director of the department of management and budget and to the chairpersons of the appropriations committees of the senate and house of representatives a complete schedule of fees to be collected under this section.

(6) The fees imposed under this part shall not exceed the actual cost of administering this part.

(7) The department may waive the fees for an accredited training program for a person who has demonstrated that no part of its net earnings benefit any private shareholder or individual.

333.5472 Notice of lead-based paint abatement.

Sec. 5472. Before beginning a lead-based paint abatement, a person conducting lead-based paint abatement shall notify the department, on forms provided by the department or through electronic methods approved by the department, regarding information the department considers necessary in order to conduct an unannounced site inspection. The person shall send notification not less than 3 business days before commencing the lead-based paint abatement.

333.5473a Administration and enforcement of part by department; rules; establishment of programs; recommendations; disclosure; exemption.

Sec. 5473a. (1) The department shall administer this part and promulgate rules as may be necessary for the administration and enforcement of this part pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) The department shall authorize, coordinate, and conduct programs to educate persons including, but not limited to, homeowners and remodelers of lead hazards associated with remodeling target housing and methods of lead-hazard reduction activities.

(3) The department shall establish a program that provides an opportunity for property owners, managers, and maintenance staff to learn about lead-safe practices and the avoidance of creating lead-based paint hazards during minor painting, repair, or renovation.

(4) Not later than January 1, 2000, the department shall recommend appropriate maintenance practices for owners of residential property, day care facilities, and secured lenders that are designed to prevent lead poisoning among children 6 years of age or less and pregnant women. In making its recommendations, the department shall consult with affected stakeholders and shall consider the effects of those maintenance practices on the availability and affordability of housing and credit.

(5) The following information required to be submitted to the department by certified individuals and persons under this part and rules promulgated under this part is exempt from disclosure as a public record under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246:

(a) The name, street address, and telephone number of the owner, agent, or tenant of a residential dwelling where lead-based paint investigations have been conducted.

(b) Information that could be used to identify 1 or more children with elevated blood lead levels that have been reported to the department.

(c) Information contained in an EBL investigation report that could be used to identify 1 or more children with elevated blood lead levels.

333.5475 Alleged violations or complaints; actions by department.

Sec. 5475. (1) The department shall receive or initiate complaints of alleged violations of this part or rules promulgated under this part and take action with respect to alleged violations or complaints as prescribed by this part.

(2) The department, in its own discretion, or upon the written complaint of an aggrieved party or of a state agency or political subdivision of this state, may investigate the acts of an accredited training program, an individual or other person certified under this part, or a person allegedly engaged in lead-based paint activity. The department may deny, suspend, or revoke certification or accreditation issued under this part if a certified person, accredited training program, certified individual, or a person allegedly engaged in lead-based paint activity is found to be not in compliance with this part or the rules promulgated under this part. In addition, the department may deny, suspend, or revoke a certification or accreditation issued under this part for 1 or more of the following:

(a) Willful or negligent acts that cause a person to be exposed to a lead-containing substance in violation of this part, the rules promulgated under this part, or other state or federal law pertaining to the public health and safety aspects of lead abatement.

(b) Falsification of records required under this part.

(c) Continued failure to obtain or renew certification or accreditation under this part.

(d) Deliberate misrepresentation of facts or information in applying for certification or accreditation under this part.

(e) Permitting a person who has not received the proper training and certification under this part or other applicable state or federal law to come in contact with lead or be responsible for a lead abatement project.

333.5476 Violation of part; fine; citation; administrative hearing.

Sec. 5476. (1) A person who violates this part or a rule promulgated under this part is subject to an administrative fine up to the following amounts for each violation or each day that a violation continues:

(a) For a first violation ..... $ 2,000.00.

(b) For a second violation ..... $ 5,000.00.

(c) For a third or subsequent violation ..... $ 10,000.00.

(2) If the department has reasonable cause to believe that a person has violated this part or a rule promulgated under this part, the department may issue a citation at that time or not later than 180 days after discovery of the alleged violation. The citation shall be written and shall state with particularity the nature of the violation as provided for by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. An alleged violator may request an administrative hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

333.5477 Violation; failure to correct violation after notice as misdemeanor; sanctions, penalties, or other provisions.

Sec. 5477. (1) A person who engages in a lead-based paint activity as provided for by this part and who willfully or repeatedly violates this part or a rule promulgated under this part or a person who fails to correct the violation after notice from the department under this part is guilty of a misdemeanor, punishable by a fine of not more than $5,000.00, and upon conviction for a second or subsequent offense, not more than $10,000.00, or imprisonment for not more than 6 months, or both. A violation of this subsection may be prosecuted by either the attorney general or the prosecuting attorney of the judicial district in which the violation was committed.

(2) The application of sanctions under this part is cumulative and does not preclude the application of other sanctions or penalties contained in the provisions of any other federal, state, or political subdivision statute, rule, regulation, or ordinance.

(3) This part does not diminish the responsibilities of an owner or occupant, or the authority of enforcing agents under state, county, city, municipal, or other local building, housing, or health and safety codes.

(4) The requirements of this part are in addition to other pertinent provisions of a code listed in subsection (3).

This act is ordered to take immediate effect.

Approved December 22, 2002.

Filed with Secretary of State December 23, 2002.

[No. 645]

(HB 5371)

AN ACT to amend 1973 PA 116, entitled "An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts," (MCL 722.111 to 722.128) by adding section 11b.

The People of the State of Michigan enact:

722.121b Database on child care options.

Sec. 11b. (1) The department of consumer and industry services shall establish and maintain a database of child care centers, family day care homes, and group day care homes as a central clearinghouse for persons seeking information on child care options. The database shall include, at a minimum, all of the following information:

(a) The name, address, and telephone number of the child care center, family day care home, or group day care home.

(b) The days and general hours of operation of the child care center, family day care home, or group day care home.

(c) The license or registration number, effective date, and expiration date of the child care center, family day care home, or group day care home.

(d) The number and nature of any adverse action taken against the child care center, family day care home, or group day care home by the department of consumer and industry services.

(2) The department of consumer and industry services shall make the database available to the public on the internet, without charge, through that department's website.

(3) The department of consumer and industry services shall inform the public, through press releases or other media avenues, of the information available in the database established under subsection (1) and how to access that database.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 646]

(HB 5242)

AN ACT to amend 1994 PA 203, entitled "An act to establish certain standards for foster care and adoption services for children and their families; and to prescribe powers and duties of certain state agencies and departments and adoption facilitators," by amending section 8 (MCL 722.958).

The People of the State of Michigan enact:

722.958 Rules; training; directory of children available for adoption; registry of adoptive homes; fee for maintaining directory information; foster parent resource centers; pilot project; report.

Sec. 8. (1) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to ensure the comprehensive, high-quality

training of foster care and adoption workers. It shall consult and may contract with colleges and universities, child placing agencies, and professional organizations for the design and implementation of the training. The training shall stress cultural sensitivity, interagency cooperation, and respect for individuals and families.

(2) The department shall produce or contract with another person to produce a directory of children under the jurisdiction of the department who are available for adoption. The department shall make copies available throughout the state to ensure that interested individuals have reasonable access to the directory.

(3) The department shall establish and maintain a registry of adoptive homes to be used as a central clearinghouse for information about prospective adoptive parents. The department shall accept information from a prospective adoptive parent who has received a preplacement assessment with a finding that the individual is suitable to be the parent of an adoptee. The information shall be filed in a form and manner that will permit it to be readily accessible to biological parents or child placing agencies seeking adoptive homes for children. The department shall charge a prospective adoptive parent an initial fee of $100.00 for maintaining the information in the registry and a renewal fee of $50.00 for each year the prospective adoptive parent remains in the registry. The department shall provide information in the registry without charge to biological parents or child placing agencies who request it.

(4) The department may establish as pilot projects foster parent resource centers. Each resource center shall provide at least support for and coordination of respite care and assistance to foster parents in obtaining day care. Resource center staff shall pursue other activities designed to promote permanency for children, particularly children with special needs, such as support aimed at retaining foster parents. The department may fund the pilot foster parent resource centers using money appropriated to the department for the current fiscal year. After the pilot project has been in operation for 2 years, the department shall evaluate the pilot project on its organization, effectiveness, and success. The department shall report the results of this evaluation to the legislature, including in the report the number of foster parents who utilized the particular resource center and the top 10 concerns raised by those foster parents and how those concerns were handled.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 647]

(SB 1390)

AN ACT to amend 1990 PA 187, entitled "An act to regulate the equipment, maintenance, operation, and use of school buses and pupil transportation vehicles; to prescribe the qualifications of school bus and pupil transportation vehicle drivers; to prescribe the powers and duties of certain state and local governmental agencies; to create an advisory committee and to prescribe its powers and duties; and to prescribe remedies and penalties," by amending section 53 (MCL 257.1853).

The People of the State of Michigan enact:

257.1853 Regular and substitute drivers of school buses; qualifications; records; background check; smoking; alcoholic liquor or controlled substance.

Sec. 53. (1) All regular drivers and substitute drivers of school buses transporting passengers and pupil transportation vehicles used for the regularly scheduled trans-

portation of passengers to and from home shall, at a minimum, meet the following qualifications:

(a) The requirements of sections 49 and 51.

(b) For a school bus or pupil transportation vehicle operating in intrastate transportation, the annual physical requirements for school bus and pupil transportation vehicle drivers as authorized by the superintendent of public instruction. In meeting these physical requirements, the driver shall be examined by a licensed physician or physicians' assistant and shall present the physician's certificate to the employer.

(c) An employer who has reason to believe that a driver is not physically qualified to drive may require a physical examination for that driver in accordance with subdivision (b) at more frequent intervals. If an employer requests a physical examination under this subdivision, the employer shall indicate in writing what physical impairment covered under the requirements of subdivision (b) the driver is to be examined for and shall only be entitled to that portion of the examination results which pertain to that impairment. An examination requested by the employer under this subdivision shall be paid for by the employer.

(d) A copy of the physician's certificate for a driver shall be carried by that driver while he or she is operating a school bus or pupil transportation vehicle.

(2) A record of each employed school bus or pupil transportation vehicle driver, including a copy of his or her physician's certificate, department of education certification, driver license, certificate of road test application for employment, and any other information that relates to driver qualification or ability to safely drive a school bus or pupil transportation vehicle, shall be maintained in the employer's administrative office.

(3) A school shall submit transportation safety related documents, such as driver qualification records, and vehicle maintenance records upon request for inspection and copying to motor carrier officers or vehicle inspectors of the department of state police.

(4) Upon receipt of an application from a person for the position of school bus driver or pupil transportation vehicle driver, a school shall request from the department of state police a background check to determine whether the person was convicted of any of the following offenses:

(a) Criminal sexual conduct in any degree.

(b) Assault with intent to commit criminal sexual conduct.

(c) An attempt to commit criminal sexual conduct in any degree.

(d) Felonious assault on a child, child abuse, or cruelty, torture, or indecent exposure involving a child.

(e) A violation of section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(5) A person shall not smoke on a school bus or pupil transportation vehicle.

(6) A person shall not possess or consume alcoholic liquor or a controlled substance on a school bus or pupil transportation vehicle.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 648]

(SB 1505)

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to

poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," by amending sections 115f, 115g, 115i, 115j, 115*l*, and 115m (MCL 400.115f, 400.115g, 400.115i, 400.115j, 400.115*l*, and 400.115m), section 115f as amended by 1998 PA 22, section 115g as amended and sections 115i and 115*l* as added by 1994 PA 238, section 115j as amended by 2000 PA 61, and section 115m as added by 1994 PA 207, and by adding sections 115r and 115s.

The People of the State of Michigan enact:

400.115f Definitions.

Sec. 115f. As used in this section and sections 115g to 115s:

(a) "Adoptee" means the child who is to be adopted or who is adopted.

(b) "Adoption assistance" means a support subsidy or medical assistance, or both.

(c) "Adoption assistance agreement" means an agreement between the department and an adoptive parent regarding adoption assistance.

(d) "Adoption code" means the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

(e) "Adoptive parent" means the parent or parents who adopt a child under the adoption code.

(f) "Certification" means a determination of eligibility by the department that an adoptee is eligible for a support subsidy or a medical subsidy or both.

(g) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(h) "Child with special needs" means an individual under the age of 18 years for whom the state has determined all of the following:

(*i*) The child cannot or should not be returned to the home of the child's parents.

(*ii*) A specific factor or condition, or a combination of factors and conditions, exists with respect to the child so that it is reasonable to conclude that the child cannot be placed with an adoptive parent without providing adoption assistance under this act. The factors or conditions to be considered may include ethnic or family background, age, membership in a minority or sibling group, medical condition, physical, mental, or emotional disability, or length of time the child has been waiting for an adoptive home.

(*iii*) A reasonable but unsuccessful effort was made to place the adoptee with an appropriate adoptive parent without providing adoption assistance under this act or a prospective placement is the only placement in the best interest of the child.

(i) "Compact" means the interstate compact on adoption and medical assistance as enacted in sections 115r and 115s.

(j) "Court" means the family division of circuit court.

(k) "Department" means the family independence agency.

(*l*) "Foster care" means placement of a child outside the child's parental home by and under the supervision of a child placing agency, the court, the department, or the department of community health.

(m) "Medical assistance" means the federally aided medical assistance program under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to 1396r-6 and 1396r-8 to 1396v.

(n) "Medical subsidy" means payment for medical, surgical, hospital, and related expenses necessitated by a specified physical, mental, or emotional condition of a child who has been placed for adoption.

(o) "Medical subsidy agreement" means an agreement between the department and an adoptive parent regarding a medical subsidy.

(p) "Nonrecurring adoption expenses" means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a child with special needs. Nonrecurring adoption expenses do not include costs or expenses incurred in violation of state or federal law or that have been reimbursed from other sources or funds.

(q) "Other expenses that are directly related to the legal adoption of a child with special needs" means adoption costs incurred by or on behalf of the adoptive parent and for which the adoptive parent carries the ultimate liability for payment, including the adoption study, health and psychological examinations, supervision of the placement before adoption, and transportation and reasonable costs of lodging and food for the child or adoptive parent if necessary to complete the adoption or placement process.

(r) "Party state" means a state that becomes a party to the interstate compact on adoption and medical assistance.

(s) "Residence state" means the state in which the child is a resident by virtue of the adoptive parent's residency.

(t) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

(u) "Support subsidy" means payment for support of a child who has been placed for adoption.

400.115g Support subsidy; payment; requirements; determination of amount; completion of certification process.

Sec. 115g. (1) The department may pay a support subsidy to an adoptive parent of an adoptee who is placed in the home of the adoptive parent under the adoption code or under the adoption laws of another state or a tribal government, if all of the following requirements are met:

(a) The department has certified that the adoptee is eligible for a support subsidy, based on all of the following:

(*i*) The adoptee is a child with special needs.

(*ii*) An adoptive parent requests a support subsidy.

(*iii*) The adoptee is in foster care at the time the department certifies the support subsidy.

(b) Certification is made before the adoptee's eighteenth birthday.

(c) Certification is made before the petition for adoption is filed.

(d) The adoptive parent requests the support subsidy not later than the date of confirmation of the adoption.

(2) The department shall determine eligibility for the support subsidy without regard to the income of the adoptive parent or parents. The amount shall be equal to the family foster care rate, including the difficulty of care rate, that was paid for the adoptee while the adoptee was in family foster care, except that the amount shall be increased to reflect increases made in the standard age appropriate foster care rate paid by the department.

(3) The department shall complete the certification process within 30 days after it receives a request for a support subsidy.

400.115i Adoptive assistance; agreement; medical subsidy eligibility; copies; modification or discontinuance; legal status, rights, and responsibilities not affected; report.

Sec. 115i. (1) If adoption assistance is to be paid, the department and the adoptive parent or parents shall enter into an adoption assistance agreement covering all of the following:

(a) The duration of the adoption assistance to be paid.

(b) The amount to be paid and, if appropriate, eligibility for medical assistance.

(c) Conditions for continued payment of the adoption assistance as established by statute.

(2) If medical subsidy eligibility is certified, the department and the adoptive parent shall enter into a medical subsidy agreement covering all of the following:

(a) Identification of the physical, mental, or emotional condition covered by the medical subsidy.

(b) The duration of the medical subsidy agreement.

(c) Conditions for continued eligibility for the medical subsidy as established by statute.

(3) The department shall give a copy of the adoption assistance agreement or medical subsidy agreement, or both, to the adoptive parent or parents.

(4) Unless the medical condition of the adoptee no longer exists, or an event described in section 115j has occurred, as indicated in a report filed under subsection (6) or as otherwise determined by the department, the department shall not modify or discontinue a medical subsidy.

(5) An adoption assistance agreement or medical subsidy agreement does not affect the legal status of the adoptee or the legal rights and responsibilities of the adoptive parent or parents.

(6) The adoptive parent or parents shall file a verified report with the department at least once each year as to the location of the adoptee and other matters relating to the continuing eligibility of the adoptee for adoption assistance or a medical subsidy, or both.

400.115j Adoption assistance; medical subsidy; duration.

Sec. 115j. (1) Adoption assistance or a medical subsidy, or both, shall continue until 1 of the following occurs:

(a) The adoptee becomes 18 years of age.

(b) The adoptee is emancipated.

(c) The adoptee dies.

(d) The adoption is terminated.

(e) A determination of ineligibility is made by the department.

(2) If sufficient money is appropriated, the department may continue adoption assistance or a medical subsidy, or both, for an adoptee under 21 years of age if the department determines that the adoptee is a student regularly attending a high school, college, university, or vocational school in pursuance of a course of study leading to a high school diploma, college degree, or gainful employment.

(3) Adoption assistance and a medical subsidy shall continue even if the adoptive parent leaves the state.

(4) An adoption support subsidy shall continue during a period in which the adoptee is removed for delinquency from his or her home as a temporary court ward based on proceedings under section 2(a) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(5) Upon the death of the adoptive parent, the department shall continue making support subsidy payments or continue medical subsidy eligibility, or both, to the guardian of the adoptee if a guardian is appointed as provided in section 5202 or 5204 of the estates and protected individuals code, 1998 PA 386, MCL 700.5202 and 700.5204.

400.115*l* Child with special needs; agreement for payment of nonrecurring adoption expenses; limitation; signature; filing claims; notice to potential claimants.

Sec. 115*l*. (1) The department shall enter into an agreement with the adoptive parent or parents of a child with special needs under this section for the payment of nonrecurring adoption expenses incurred by or on behalf of the adoptive parent or parents. The agreement may be a separate document or part of an adoption assistance agreement under section 115i. The agreement under this section shall indicate the nature and amount of nonrecurring adoption expenses to be paid by the department, which shall not exceed $2,000.00 for each adoptive placement meeting the requirements of this section. The department shall make payment as provided in the agreement.

(2) An agreement under this section shall be signed at or before entry of an order of adoption under the adoption code. Claims for payment shall be filed with the department within 2 years after entry of the order of adoption.

(3) The department shall take all actions necessary and appropriate to notify potential claimants under this section, including compliance with federal regulations.

400.115m Pamphlet describing adoption process and adoption assistance and medical subsidy programs; preparation; distribution; contents.

Sec. 115m. (1) The department shall prepare and distribute to adoption facilitators and other interested persons a pamphlet describing the adoption process and the adoption assistance and medical subsidy programs established under sections 115f to 115s. The state department shall provide a copy of the pamphlet to each prospective adoptive parent before placing a child with that parent.

(2) The description of the adoption process required under subsection (1) shall include at least all of the following:

(a) The steps that must be taken under the adoption code to complete an adoption, and a description of all of the options available during the process.

(b) A description of the services that are typically available from each type of adoption facilitator.

(c) Recommended questions for a biological parent or prospective adoptive parent to ask an adoption facilitator before engaging that adoption facilitator's services.

(d) A list of the rights and responsibilities of biological parents and prospective adoptive parents.

(e) A description of the information services available to biological and prospective adoptive parents including, but not limited to, all of the following:

(*i*) The registry of adoptive homes established and maintained by the department under section 8 of the foster care and adoption services act, 1994 PA 203, MCL 722.958.

(*ii*) The directory of children produced under section 8 of the foster care and adoption services act, 1994 PA 203, MCL 722.958.

(*iii*) The public information forms maintained by the department pursuant to section 14d of 1973 PA 116, MCL 722.124d.

(f) A statement about the existence of the children's ombudsman and its authority as an investigative body.

(g) A statement about the importance and availability of counseling for all parties to an adoption and that a prospective adoptive parent must pay for counseling for a birth parent or guardian unless the birth parent or guardian waives the counseling.

400.115r Interstate compact on adoption and medical assistance; citation of §§ 400.115r and 400.115s.

Sec. 115r. (1) Sections 115r and 115s shall be known and may be cited as the "interstate compact on adoption and medical assistance".

(2) By the enactment of sections 115r and 115s, this state becomes a party state.

(3) Sections 115r and 115s shall be liberally construed to accomplish all of the following:

(a) Strengthen protections for each adoptee who is a child with special needs on behalf of whom a party state commits to pay adoption assistance when that child's residence state is a state other than the state committed to provide the adoption assistance.

(b) Provide substantive assurances and operating procedures that promote the delivery of medical assistance and other services to a child on an interstate basis through medical assistance programs established by the laws of each state that is a party to the compact.

400.115s Interstate compacts; authorization; force and effect; contents.

Sec. 115s. (1) The family independence agency is authorized to negotiate and enter into interstate compacts with agencies of other states for the provision of adoption assistance for an adoptee who is a child with special needs, who moves into or out of this state, and on behalf of whom adoption assistance is being provided by this state or another state party to such a compact.

(2) When a compact is so entered into and for as long as it remains in force, the compact has the force and effect of law.

(3) A compact authorized under this act must include:

(a) A provision making it available for joinder by all states.

(b) A provision or provisions for withdrawal from the compact upon written notice to the parties, but with a period of 1 year between the date of the notice and effective date of the withdrawal.

(c) A requirement that the protections under the compact continue in force for the duration of the adoption assistance and are applicable to all children and their adoptive parents who on the effective date of the withdrawal are receiving adoption assistance from a party state other than the one in which they are resident and have their principal place of abode.

(d) A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state that undertakes to provide the adoption assistance. An agreement required by this subdivision shall be expressly for the benefit of the adopted child and be enforceable by the adoptive parents and the state agency providing the adoption assistance.

(e) Other provisions as may be appropriate to implement the proper administration of the compact.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 649]

(SB 1000)

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 section 252a (MCL 257.252a), as amended by 2000 PA 306.

The People of the State of Michigan enact:

257.252a Abandoned vehicle; duties of police agency; contest by registered owner; hearing; request; obtaining release of vehicle; public sale; inability to determine ownership of abandoned vehicle.

Sec. 252a. (1) As used in this section, "abandoned vehicle" means a vehicle that has remained on public property or private property for a period of 48 hours, after a police agency or other governmental agency designated by the police agency has affixed a

written notice to the vehicle or on a state trunk line highway as described in section 1 of 1951 PA 51, MCL 247.651, as follows:

(a) If a valid registration plate is affixed to the vehicle, for a period of 18 hours.

(b) If a valid registration plate is not affixed to the vehicle.

(2) If a vehicle has remained on public or private property for a period of time so that it appears to the police agency to be abandoned, the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Affix a written notice to the vehicle. The written notice shall contain the following information:

(*i*) The date and time the notice was affixed.

(*ii*) The name and address of the police agency taking the action.

(*iii*) The name and badge number of the police officer affixing the notice.

(*iv*) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.

(*v*) The year, make, and vehicle identification number of the vehicle, if available.

(3) If the vehicle is an abandoned vehicle, the police agency may have the vehicle taken into custody.

(4) A police agency that has a vehicle taken into custody shall do all of the following:

(a) Recheck to determine if the vehicle has been reported stolen.

(b) Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.

(c) Within 7 days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle is considered abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(*i*) The year, make, and vehicle identification number of the vehicle if available.

(*ii*) The location from which the vehicle was taken into custody.

(*iii*) The date on which the vehicle was taken into custody.

(*iv*) The name and address of the police agency that had the vehicle taken into custody.

(*v*) The business address of the custodian of the vehicle.

(*vi*) The procedure to redeem the vehicle.

(*vii*) The procedure to contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees.

(*viii*) A form petition that the owner may file in person or by mail with the specified court that requests a hearing on the police agency's action.

(*ix*) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(5) The registered owner may contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted under sections 252e and 252f. An owner

who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly considered abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(6) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(7) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.

(8) Not less than 20 days after the disposition of the hearing described in subsection (5) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency shall offer the vehicle for sale at a public sale pursuant to section 252g.

(9) If the ownership of a vehicle that is considered abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 252g, not less than 30 days after public notice of the sale has been published.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 650]

(SB 795)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding section 32504a.

The People of the State of Michigan enact:

324.32504a Restoration or maintenance of lighthouse; lease or agreement for use of lands; "approved organization" defined.

Sec. 32504a. (1) The department may accept an application under this part from an approved organization, whether or not the approved organization is a riparian landowner, and may enter into a lease or agreement for the use of lands described in section 32502 on which a lighthouse is located, including the use of water over those lands immediately adjacent to the lighthouse.

(2) As used in this section, "approved organization" means a lawful nonprofit entity as approved by the department, a local unit of government, a federal or state agency or department, an educational agency, or a community development organization, that is seeking to secure a lease or agreement under this section for the purpose of restoring or maintaining a lighthouse.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 651]

(SB 705)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.1100) by adding section 75.

The People of the State of Michigan enact:

250.1075 "Veterans Memorial Highway."

Sec. 75. That portion of highway US-10 in Mason county beginning at the city of Scottville and continuing west to the city of Ludington shall be named the "Veterans Memorial Highway".

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 652]

(HB 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:

257.4c "Buy back vehicle" defined.

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.

257.11 "Dealer" defined.

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.

257.35c "Off lease vehicle" defined.

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

257.217 Application for registration and certificate of title; out-of-state vehicle; form; fee; signature of owner; contents; leased pickup truck or vehicle; duties of dealer and person selling or leasing certain vehicles; off lease or buy back vehicle; temporary registration; copy of security agreement; service fee; imprint on back side of check or bank draft; liability for damages.

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.

257.235 Dealer as transferee of vehicle; requirements; duties; liability of dealer or transferee; transfer of title or interest to another dealer; duties of dealer; dealer reassignment of title form; buy back or off lease vehicle.

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.

257.248j Acting as dealer without license; warning; administrative fine; notice of assessment; actions; informal conference; administrative hearing; payment of administrative fine; reduction.

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.

257.310 Operator's or chauffeur's license; issuance; motorcycle indorsement or vehicle group designation or indorsement application; contents of license; digitized license; unlawful acts; penalties; temporary driver's permit; medical data or anatomical gift; designation of patient advocate or emancipated status; duplicates of license.

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.

257.312e Group commercial motor vehicle designation; tests; holder of unexpired operator's or chauffeur's license; qualifications

and fees for vehicle group designation and indorsement; F vehicle indorsement; exceptions; former indorsements; expiration; disposition of money received and collected under subsection (7); refund to county or municipality; compliance with §§ 257.303 and 257.319b.

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.

257.401 Civil actions; liability of owner; liability of lessor; construction of subsections (3) and (4); "motor vehicle" defined; liability for off lease vehicle.

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.

Effective date.

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

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 653]

(SB 694)

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 section 725a (MCL 257.725a), as amended by 1980 PA 311.

The People of the State of Michigan enact:

257.725a Transportation of farm machinery or implements by dealer; annual permit; condition.

Sec. 725a. Upon application, the state transportation department may issue an annual permit authorizing a farm implement dealer to transport by truck, truck tractor, semitrailer, or trailer upon a state highway during daylight hours, including Saturday,

farm machinery or implements of a greater width or height than authorized by this act if the transportation is otherwise permitted under those rules promulgated pursuant to section 716 that do not conflict with this section.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 654]

(SB 1221)

AN ACT to amend 1967 PA 150, entitled "An act to provide for the militia of this state and its organization, command, personnel, administration, training, supply, discipline, deployment, employment, and retirement; and to repeal acts and parts of acts," by amending section 302 (MCL 32.702).

The People of the State of Michigan enact:

32.702 Adjutant general; appointment; qualifications; tenure; pay and allowances; oath of office.

Sec. 302. The governor shall appoint the adjutant general from among qualified federally recognized officers of the national guard. The adjutant general shall have served as an officer of field or general grade in the state military establishment for not less than 5 years before appointment. The adjutant general shall serve at the pleasure of the governor, and unless sooner relieved, shall serve until the age of 64. The adjutant general shall receive pay and allowances equal to those of an active army or air force officer of like grade and service. Not later than 10 days after the appointment, the adjutant general shall file his or her constitutional oath of office with the secretary of state.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 655]

(SB 883)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an

insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding chapter 16.

The People of the State of Michigan enact:

CHAPTER 16. Creditor-Placed Insurance

500.1601 Insurer or producer transacting creditor-placed insurance; scope.

Sec. 1601. (1) This chapter applies to an insurer or producer transacting creditor-placed insurance as defined in this chapter.

(2) All creditor-placed insurance written in connection with credit transactions for personal, family, or household purposes is subject to the provisions of this chapter, except for the following:

(a) Transactions involving extensions of credit primarily for business or commercial purposes.

(b) Insurance on collateralized real property.

(c) Insurance offered by the creditor and elected by the debtor at the debtor's option.

(d) Insurance for which no specific charge is made to the debtor or the debtor's account.

(e) Blanket insurance, whether paid for by the debtor or the creditor.

500.1603 Private cause of action not created.

Sec. 1603. This chapter does not create or imply a private cause of action for violation of this chapter and does not extinguish any debtor rights available under common law or other state statute.

500.1605 Definitions.

Sec. 1605. As used in this chapter:

(a) "Actual cash value" means the cost of replacing damaged or destroyed property with comparable new property, minus depreciation and obsolescence.

(b) "Blanket insurance" means insurance that provides coverage on collateral as defined in a policy issued to a creditor, without specifically listing the collateral covered.

(c) "Collateral" means personal property that is pledged as security for the satisfaction of a debt.

(d) "Credit agreement" means the written document that sets forth the terms of the credit transaction and includes the security agreement.

(e) "Credit transaction" means a transaction by the terms of which the repayment of money loaned or credit commitment made, or payment of goods, services, or properties sold or leased, is to be made at a future date or dates.

(f) "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights, or privileges for which payment is arranged through a credit transaction, or any successor to the right, title, or interest of a lender, vendor, or lessor.

(g) "Creditor-placed insurance" means insurance that is purchased unilaterally by the creditor, who is the named insured, subsequent to the date of the credit transaction, providing coverage against loss, expense, or damage to collateralized personal property as a result of fire, theft, collision, or other risks of loss that would either impair a creditor's interest or adversely affect the value of collateral covered by limited dual interest insurance. Creditor-placed insurance is purchased according to the terms of the credit agreement as a result of the debtor's failure to provide required physical damage insurance, with the cost of the coverage being charged to the debtor. It is either single interest insurance or limited dual interest insurance.

(h) "Debtor" means the borrower of money or a purchaser or lessee of goods, services, property, rights, or privileges, for which payment is arranged through a credit transaction.

(i) "Insurance tracking" means monitoring evidence of insurance on collateralized credit transactions to determine whether insurance required by the credit agreement has lapsed, and communicating with debtors concerning the status of insurance coverage.

(j) "Lapse" means that the insurance coverage required by the credit agreement is not in force.

(k) "Limited dual interest insurance" means insurance purchased by the creditor to insure its interest in the collateral securing the debtor's credit transaction. Limited dual interest insurance waives the 3 conditions for loss payment under single interest insurance and extends coverage on the collateral while in the possession of the debtor.

(*l*) "Loss ratio" means the ratio of incurred losses to earned premium.

(m) "Net debt" means the amount necessary to liquidate the remaining debt in a single lump-sum payment, excluding all unearned interest and other unearned charges.

(n) "Producer" means a person who receives a commission for insurance placed or written or who, on behalf of an insurer or creditor, solicits, negotiates, effects, procures,

delivers, renews, continues, or binds policies of insurance to which this chapter applies, but does not include the following:

(*i*) A regular salaried officer, employee, or other representative of an insurer who devotes substantially all working time to activities other than those specified in this subdivision and who receives no compensation that is directly dependent on the amount of insurance business written.

(*ii*) A regular salaried officer or employee of a creditor who receives no compensation that is directly dependent on the amount of insurance effected or procured.

(o) "Single interest insurance" means insurance purchased by the creditor to insure its interest in the collateral securing a debtor's credit transaction where the following 3 conditions must be met for payment of loss under the policy:

(*i*) The debtor has defaulted in payment.

(*ii*) The creditor has legally repossessed the collateral, unless collateral has been stolen from the debtor.

(*iii*) The creditor has suffered an impairment of interest.

500.1607 Dates on which insurance effective or terminated.

Sec. 1607. (1) Creditor-placed insurance shall become effective on the latest of the following dates:

(a) The date of the credit transaction.

(b) The date prior coverage, including prior creditor-placed insurance coverage, lapsed.

(c) One year before the date on which the related insurance charge is made to the debtor's account.

(d) A later date provided for in the agreement between the creditor and insurer.

(2) Creditor-placed insurance shall terminate on the earliest of the following dates:

(a) The date other acceptable insurance becomes effective, subject to the debtor providing acceptable evidence of the other insurance to the creditor.

(b) The date the collateralized personal property is repossessed, unless the property is returned to the debtor within 10 days of the repossession.

(c) The date the collateralized personal property is determined by the insurer to be a total loss.

(d) The date the debt is completely extinguished.

(e) An earlier date specified in the individual policy or certificate of insurance.

(3) An insurance charge shall not be made to a debtor for a term longer than the scheduled term of the creditor-placed insurance when it becomes effective, and an insurance charge shall not be made to the debtor for creditor-placed insurance before the effective date of the insurance.

(4) If a charge is made to a debtor for creditor-placed insurance coverage that exceeds a term of 1 year, the debtor shall be notified at least annually that the insurance will be canceled and a refund or credit of unearned charges made if evidence of acceptable insurance secured by the debtor is provided.

500.1609 Premiums; calculation; limitation; charges creating balloon payment prohibited.

Sec. 1609. (1) Premiums for creditor-placed insurance coverage may be calculated based on an amount not exceeding the net debt even though the coverage may limit the

insurer's liability to the net debt, actual cash value, or cost of repair, or other premium calculation methods that more closely reflect the exposure of each item insured and approximate the premium calculation method of the coverage required by the credit agreement.

(2) An insurer shall not write creditor-placed insurance for which the premium rate differs from that determined by the schedules of the insurer on file with the commissioner. The premium or amount charged to the debtor for creditor-placed insurance shall not exceed the premiums charged by the insurer, computed at the time the charge to the debtor is determined.

(3) A method of billing insurance charges to the debtor on closed-end credit transactions that creates a balloon payment at the end of the credit transaction or extends the credit transaction's maturity date is prohibited, unless specifically disclosed at the time of the origination of the credit agreement and specifically agreed to by the debtor at the time the charge is added to the outstanding credit balance.

500.1611 Exclusions.

Sec. 1611. (1) Creditor-placed insurance coverage does not include any of the following:

(a) Coverage for the cost of repossession.

(b) Skip, confiscation, and conversion coverage.

(c) Coverage for payment of mechanics' or other liens that do not arise from a covered loss occurrence.

(d) Coverage that requires a debtor's insurance deductible to be less than $250.00.

(e) Coverage that is broader than the insurance coverages that meet the minimum insurance requirements of the credit agreement.

(2) This section does not prohibit the issuance of a separate policy or endorsement providing the coverages listed in subsection (1). However, no charge shall be passed along to the debtor for these coverages.

500.1613 Evidence of insurance coverage.

Sec. 1613. Creditor-placed insurance shall be set forth in an individual policy or certificate of insurance. A copy of the individual policy, certificate of insurance coverage, or other evidence of insurance coverage shall be mailed, first-class mail, or delivered in person to the last known address of the debtor.

500.1615 Policy forms and certificates of insurance; filing; schedule of premium rates; withdrawal of approval.

Sec. 1615. (1) All policy forms and certificates of insurance to be delivered or issued for delivery in this state and the schedules of premium rates pertaining to them shall be filed with the commissioner.

(2) Within 30 days after the filing of the policy forms and certificates of insurance, the commissioner shall disapprove a form that does not conform to this act. Within 30 days of filing, the commissioner shall disapprove a schedule of premium rates pertaining to the form if it does not conform to the standard set forth in subsection (5).

(3) If the commissioner disapproves a form or schedule of premium rates, the commissioner shall promptly notify the insurer in writing of the disapproval, and the insurer shall not issue or use the form or schedule. The commissioner shall specify the reasons for disapproval in the notice and state that a hearing will be granted upon request pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Unless the commissioner disapproves the form or schedule of premium rates as provided in this section or gives written approval of the form or schedule within 30 days after the filing, the form or schedule is considered approved 31 days after the filing.

(5) A schedule of premium rates shall provide for premiums that are not unreasonable in relation to the benefits provided by the form to which the schedule applies. A premium rate or schedule of premium rates is reasonable for purposes of this section if the rate or schedule of rates produces or may reasonably be expected to produce a loss ratio of 60% or greater. This subsection does not prohibit the commissioner from approving other loss ratios he or she finds reasonable.

(6) The commissioner may withdraw approval of an approved form or schedule of premium rates when the commissioner would be required to disapprove the form or schedule of premium rates if it were filed at the time of the withdrawal. The withdrawal shall be in writing and shall specify the reasons for withdrawal and the effective date of the withdrawal. An insurer adversely affected by a withdrawal may, within 30 days after receiving the written notification of the withdrawal, request a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to determine whether the withdrawal should be annulled, modified, or confirmed. Unless the commissioner grants an extension in writing in the withdrawal or subsequently grants an extension, the withdrawal, in the absence of a request for hearing, shall become effective prospectively and not retroactively, 91 days after delivery of the notice of withdrawal and, if the request for hearing is filed, 91 days after delivery of written notice of the commissioner's determination.

500.1617 Refund of unearned premium or other charges; statement of refund; amount.

Sec. 1617. (1) Not later than 60 days after the termination of creditor-placed insurance coverage, and in accordance with sections 2833(1)(h) and 3020(1)(c), an insurer shall refund any unearned premium or other identifiable charges.

(2) Not later than 60 days after the termination date of creditor-placed insurance coverage, the insurer shall provide to the debtor a statement of refund disclosing the effective date, the termination date, the amount of premium being refunded, and the amount of premium charged for the coverage provided.

(3) If coverage under this chapter is not provided, the entire amount of premiums, minimum premiums, fees, or charges of any kind shall be refunded.

500.1619 Loss incurred; payment; reduced net debt or actual cash value amounts; subrogation; written statement; towing and storage charges.

Sec. 1619. (1) If a loss is incurred under a creditor-placed insurance policy, the insurer shall pay, at a minimum, the lesser of the following, determined as of the date of loss:

(a) The cost to repair the collateral less any applicable deductible.

(b) The actual cash value of the collateral, less any applicable deductible.

(c) The net debt, less any applicable deductible. The method of calculation of net debt payable pursuant to this subdivision shall be identical to the method of calculation of net debt for payment of premiums pursuant to section 1609(1).

(d) If single interest insurance is provided, the amount by which the creditor's interest is impaired.

(2) The net debt or actual cash value amounts in subsection (1) may be reduced by the value of salvage if the insurer does not take possession of the insured property.

(3) In the event of a loss, no subrogation shall run against the debtor from the insurer.

(4) Whenever a claim is made on a creditor-placed insurance policy, the insurer shall furnish to the claimant a written statement of the loss explaining the settlement amount and the method of settlement.

(5) A creditor or insurer shall not abandon salvage to a towing or storage facility in lieu of payment of storage fees without the consent of the facility and the claimant. The insurer shall be responsible for the payment of towing and storage charges for a covered loss occurrence from the time the claim is reported to the insurer in accordance with the terms of the policy to the time the claim is paid. The insurer shall give written notice to the claimant when the claim is paid that the claimant may incur storage charges after the date the claim is paid.

500.1621 Insurance on collateral; conditions.

Sec. 1621. (1) For a creditor to place insurance on collateral pledged by the debtor and pass the cost of the insurance on to the debtor, all of the following must be met:

(a) The creditor must have a security interest in the collateral.

(b) The credit agreement must require the debtor to maintain insurance on the collateral to protect the creditor's interest.

(c) The credit agreement must authorize the creditor to place the insurance if the debtor fails to provide evidence of the insurance.

(d) The requirements listed in subdivisions (a) to (c) must be clearly disclosed to the debtor at the inception of the credit transaction.

(2) A debtor has the right to provide required insurance through existing policies of insurance owned or controlled by the debtor or of procuring and furnishing the required coverage through an insurer authorized to transact insurance within this state. However, a creditor may establish maximum acceptable deductibles, insurer solidity standards, and other reasonable conditions with respect to the required insurance.

500.1623 Rebates or inducements; prohibitions.

Sec. 1623. (1) The entire amount of the premium due from a creditor shall be remitted to the insurer or its producer in accordance with the insurer's requirements. No commissions may be paid to, or retained by, a person or entity except a licensed and appointed producer.

(2) A creditor shall not retain unearned premiums upon cancellation of the insurance without crediting to the debtor's account the amount of unearned insurance charges.

(3) Rebates to the creditor of a portion of the premium charged to the debtor are prohibited as are other inducements provided to the creditor by an insurer or producer. All of the following activities are prohibited rebates or inducements:

(a) Allowing insurers or producers to purchase certificates of deposit from the creditor or to maintain accounts with the creditor at less than the market interest rates and charges that the creditor applies to other customers for deposit accounts of similar amounts and duration.

(b) Paying a commission to a person, including a creditor, who is not appropriately licensed as a producer in this state.

(c) Purchasing or offering to purchase certificates of deposit from, or maintaining or offering to maintain deposit accounts or investment accounts with a creditor as part of a creditor-placed insurance solicitation.

(d) Any other activity identified by the commissioner and prohibited by rule, regulation, or order.

(4) Prohibited rebates or inducements do not include any of the following:

(a) The paying of commissions and other compensation to a duly licensed and appointed producer, whether or not affiliated with the creditor.

(b) The paying to the creditor policyholder of group experience rated refunds or policy dividends.

(c) The providing of insurance tracking and other services incidental to the creditor-placed insurance program.

(d) The paying to the creditor of amounts intended to reimburse the creditor for its expenses incurred incidental to the creditor-placed insurance program, such as costs of data processing, mail processing, telephone service, insurance tracking, billing, collection, and related activities, provided that these payments are approved in a manner consistent with the procedures in section 1615 and are calculated in a manner that does not exceed an amount reasonably estimated to equal the expenses incurred by the creditor.

(5) An insurer that pays commissions to producers for creditor-placed insurance that are greater than 20% of the net written premium shall demonstrate to the commissioner that the commissions are not unreasonably high in relation to the value of the services rendered.

(6) This section does not prohibit or restrict an insurer or producer from maintaining a demand, premium deposit, or other account or accounts with a creditor for which the insurer or producer provides insurance if the accounts pay the market interest rate and charges that the creditor applies to other customers for deposit accounts of similar amounts and duration.

500.1625 Adequate disclosure of requirement to maintain insurance; notice; final notice; noncompliance.

Sec. 1625. (1) A creditor shall not impose charges, including premium costs and related interest and finance charges, on a debtor for creditor-placed insurance coverage unless adequate disclosure of the requirement to maintain insurance has been made to the debtor. Adequate disclosure is accomplished if all of the following occur:

(a) The credit agreement sets forth the requirement that the debtor must maintain insurance on the collateral as provided for in section 1621.

(b) The creditor makes reasonable efforts to notify the debtor of the requirement to maintain insurance and allows a reasonable time for compliance with this requirement.

(c) A final notice as required by this chapter is sent to the debtor.

(d) If creditor-placed insurance coverage is issued, a copy of the policy or certificate is sent to the debtor as provided for in section 1613.

(2) After adequate disclosure of the request to maintain insurance has been made to the debtor as required by this section, a creditor may proceed to impose charges for creditor-placed insurance if the debtor fails to provide evidence of insurance. A creditor may impose charges no earlier than 10 days after sending the final notice.

(3) Reasonable efforts to notify the debtor under subsection (1)(b) are accomplished if the creditor does all of the following:

(a) Mails a notice by first-class mail to the debtor's last known address as contained in the creditor's records, stating that the creditor intends to charge the debtor for creditor-

placed insurance coverage on the collateral if the debtor fails to provide evidence of the property insurance to the creditor.

(b) Allows the debtor at least 20 days to respond to the notice and provide evidence of acceptable insurance coverage before sending a final notice.

(c) Sends a final notice in compliance with this section by first-class mail to the debtor's last known address as contained in the creditor's records at least 10 days before the cost of insurance is charged to the debtor by the creditor. Proof of the mailing of the final notice shall be retained for at least 3 years following the expiration or termination of the coverage or as otherwise required by law.

(4) The initial notice under this section shall be in a form determined by the creditor to remind the debtor of the requirement to maintain insurance on the collateral. The final notice under this section shall be as complete as the following notice, printed in not less than 12-point type, and modified where necessary to fit the nature of the credit transaction:

FINAL NOTICE

Your credit agreement with us requires you to have property insurance on the collateral until you pay off your loan. You have not given us proof you have insurance on the property. You can ask your insurance company or agent to give us proof of insurance or you can send us proof you have property insurance within 10 calendar days after the date this letter was postmarked. If you do not, we will buy the insurance and charge the cost to you.

You must pay for the property insurance we buy. It may cost more than insurance you can buy on your own. The cost of the insurance we buy may be added to your loan balance and we may charge you interest on it. If we do, you will pay interest at the same rate you pay on your loan.

The insurance we buy will pay claims to us (the creditor) for physical damage to your property. It will not pay any claims made against you [and it may not pay you for any claims you make (delete if limited dual interest coverage)]. The insurance we buy will not give you any liability insurance coverage and will not meet the requirements of a state's financial responsibility law.

We may receive compensation for placing this insurance, which is included in the cost of coverage charged to you.

The property coverage we buy will start on the date shown in the policy or certificate, which may go back to the date of the loan or the date your prior coverage stopped. We will cancel the insurance we bought for you and give you a refund or credit of unearned charges if you give us proof you have bought property insurance somewhere else or if you have paid off the loan.

(5) All creditor-placed insurance shall be set forth in an individual policy or certificate of insurance. Not earlier than the sending of the final notice nor 25 days after a charge is made to the debtor for creditor-placed insurance coverage, the creditor shall cause a copy of the individual policy, certificate, or other evidence of insurance coverage evidencing the creditor-placed insurance coverage to be sent, first-class mail, to the debtor's last known address.

(6) A creditor's compliance with or failure to comply with this chapter shall not be construed to require the creditor to purchase insurance coverage on the collateral, and the creditor is not liable to the debtor or a third party as a result of its failure to purchase the insurance.

500.1627 Investigations or examinations; enforcement; hearing; consent agreement; injunctive relief.

Sec. 1627. (1) In addition to other powers under this act, the commissioner may conduct investigations or examinations of insurers and producers to ensure compliance with and enforcement of the provisions of this chapter.

(2) Upon finding that an insurer or producer has violated a provision of this chapter or a regulation promulgated under this chapter, the commissioner may issue an order directing that the insurer or producer cease and desist from committing the violations, impose a civil penalty for the violations, provide an equitable remedy for past violations, or any combination of these.

(3) Upon the issuance of an order under subsection (2), the insurer or producer may request a hearing. At the hearing, the burden shall be on the insurer or producer to show cause why an order issued pursuant to subsection (2) should be annulled, modified, or confirmed. Pending the hearing and the decision by the commissioner, the commissioner shall suspend the effective date of the order. Not more than 60 days after the hearing, the commissioner shall enter an order of final determination that shall specify all relevant findings of fact, conclusions of law, and orders. With the agreement of each affected insurer or producer, and in lieu of a hearing, the commissioner may enter into a consent agreement disposing of the matters that would be the subject of the hearing and order.

(4) The commissioner may bring an action in the circuit court for Ingham county for an injunction or other appropriate relief to enjoin threatened or existing violations of this chapter or of the commissioner's orders or regulations or for restitution on behalf of persons aggrieved by a violation of this chapter or of the commissioner's orders or regulations.

500.1629 Judicial review; court order.

Sec. 1629. (1) A person aggrieved by a final order, decision, finding, ruling, action, or inaction provided for under this chapter may seek judicial review as provided in section 244.

(2) To the extent that the order or final determination of the commissioner is affirmed, the court shall issue its own order commanding obedience to the terms of the commissioner's order or final determination. If either party applies to the court for leave to produce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to produce the evidence in the proceeding before the commissioner, the court may order the additional evidence to be taken before the commissioner and to be produced in a hearing in the manner and upon the terms and conditions the court considers proper. The commissioner may modify the findings of fact or make new findings by reason of the additional evidence taken and shall file the modified or new findings with a recommendation, if any, for the modification or setting aside of the original order or final determination, with the return of the additional evidence.

(3) An order issued by the commissioner under section 1627 shall become final upon the expiration of the time allowed for filing a petition for review if no petition has been duly filed within that time, except that the commissioner may thereafter modify or set aside the order to the extent provided in section 1627 or upon the final decision of the court if the court directs that the order of the commissioner be affirmed or the petition for review dismissed.

(4) An order of the commissioner under this chapter or an enforcement order of a court does not relieve or absolve any person affected by the order from liability under any other laws of this state.