

Act No. 359
Public Acts of 1993
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**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Senators Geake, Welborn, Bouchard, Ehlers, Cisky, DiNello and Dillingham

ENROLLED SENATE BILL No. 222

AN ACT to amend sections 8a, 8b, 204a, 303, 317, 319, 320e, 323, 625, 625b, and 732 of Act No. 300 of the Public Acts of 1949, entitled as amended "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," section 8a as amended by Act No. 99 of the Public Acts of 1991, section 8b as amended by Act No. 346 of the Public Acts of 1988, sections 303, 320e, and 625 as amended by Act No. 98 of the Public Acts of 1991, section 319 as amended by Act No. 93 of the Public Acts of 1991, and sections 323, 625b, and 732 as amended by Act No. 100 of the Public Acts of 1991, being sections 257.8a, 257.8b, 257.204a, 257.303, 257.317, 257.319, 257.320e, 257.323, 257.625, 257.625b, and 257.732 of the Michigan Compiled Laws; and to add sections 23a, 44a, 319e, and 323d.

The People of the State of Michigan enact:

Section 1. Sections 8a, 8b, 204a, 303, 317, 319, 320e, 323, 625, 625b, and 732 of Act No. 300 of the Public Acts of 1949, section 8a as amended by Act No. 99 of the Public Acts of 1991, section 8b as amended by Act No. 346 of the Public Acts of 1988, sections 303, 320e, and 625 as amended by Act No. 98 of the Public Acts of 1991, section 319 as amended by Act No. 93 of the Public Acts of 1991, and sections 323, 625b, and 732 as amended by Act No. 100 of the Public Acts of 1991, being sections 257.8a, 257.8b, 257.204a, 257.303, 257.317, 257.319, 257.320e, 257.323, 257.625, 257.625b, and 257.732 of the Michigan Compiled Laws, are amended and sections 23a, 44a, 319e, and 323d are added to read as follows:

Sec. 8a. "Conviction" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, a finding of guilt, a juvenile adjudication, or a probate court order of disposition for a child found to be within the provisions of chapter XIIA of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.28 of the Michigan Compiled Laws, for a criminal law violation regardless of whether the penalty is rebated or suspended.

Sec. 8b. "Controlled substance" means a controlled substance or controlled substance analogue as defined in section 7104 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7104 of the Michigan Compiled Laws.

Sec. 23a. "Juvenile adjudication" means either of the following:

(a) A finding of juvenile delinquency under chapter 403 of title 18 of the United States code, 18 U.S.C. 5031 to 5040 and 5042.

(b) The entry of a judgment or order of disposition by a court of another state that states or is based upon a finding that a juvenile has violated a law of another state, which violation would have been a criminal offense if committed by an adult in that state.

Sec. 44a. "Probate court disposition" means the entry of a probate court order of disposition for a child found to be within the provisions of chapter XIIA of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.28 of the Michigan Compiled Laws.

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

(a) A license issued to the person under chapter 3.

(b) A conviction or civil infraction determination entered against the person for a violation of this act or a local ordinance substantially corresponding to a provision of this act.

(c) A failure of the person to comply with an order or judgment issued pursuant to section 907.

(d) A cancellation, denial, revocation, suspension, or restriction of the person's operating privilege under this act.

(e) An accident in which the person is involved.

(f) A conviction of the person for an offense described in section 319e.

(g) Any other information received by the secretary of state regarding the person that is required to be maintained as part of the person's driving record as provided by law.

(2) A certified copy of an order, record, or paper maintained in this file is admissible in evidence in like manner as the original and is prima facie proof of the facts stated in the original.

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

(a) A person, as an operator, who is less than 18 years of age, except that the secretary of state may issue a license to a person who is not less than 16 years of age and who has satisfactorily passed a driver education course and examination given by a public school or nonpublic school of this or another state offering a course approved by the department of education, or an equivalent course and examination as prescribed in section 811. The secretary of state may issue to a person not less than 14 years of age a restricted license as provided in this act. This subdivision shall not apply to a person who has been the holder of a valid driver's license issued by another state, territory, or possession of the United States or another sovereignty for at least 1 year immediately before application for a driver's license under this act.

(b) A person, as a chauffeur, who is less than 18 years of age, except that the secretary of state may issue a license to a person who is not less than 16 years of age and who has satisfactorily passed a driver education course and examination given by a public school or nonpublic school of this or another state offering a course approved by the department of education, or an equivalent course and examination as prescribed in section 811.

(c) A person whose license has been suspended during the period for which the license was suspended.

(d) A person who has been convicted under section 625(4) or (5).

(e) A person who is an habitual violator of the criminal laws relating to operating a vehicle while impaired by or under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance, or with a blood alcohol content of 0.10% or more by weight of alcohol. Convictions of any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state, shall be prima facie evidence that the person is an habitual violator as described in this subdivision:

(i) Any combination of 2 convictions within 7 years for 1 or more of the following:

(A) A violation of section 625(1), (4), or (5).

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

(ii) Any combination of 3 convictions within 10 years for 1 or more of the following:

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

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

(f) A person who in the opinion of the secretary of state is afflicted with or suffering from a physical or mental disability or disease which prevents that person from exercising reasonable and ordinary control over a motor vehicle while operating the motor vehicle upon the highways.

(g) A person who is unable to understand highway warning or direction signs in the English language.

(h) A person who is an habitually reckless driver. Four convictions of reckless driving under this act or any other law of this state relating to reckless driving or under a local ordinance of this state or a law of another state which defines the term "reckless driving" substantially similar to the law of this state shall be prima facie evidence that the person is an habitually reckless driver.

(i) A person who is an habitual criminal. Two convictions of a felony involving the use of a motor vehicle in this or another state shall be prima facie evidence that the person is an habitual criminal.

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

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

(l) A nonresident.

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

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

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

(a) Four convictions of reckless driving within 7 years.

(b) Two convictions of a felony involving the use of a motor vehicle within 7 years.

(c) Any combination of 2 convictions within 7 years for 1 or more of the following:

(i) A violation of section 625(1).

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

(iii) A violation of section 625(4) or (5).

(d) One conviction under section 625(4) or (5).

(e) Any combination of 3 convictions within 10 years for 1 or more of the following:

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

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

(3) The secretary of state shall revoke a license under subsection (2) notwithstanding a court order issued under section 625, section 625b, former section 625(1) or (2), or former section 625b, or a local ordinance substantially corresponding to section 625, section 625b, former section 625(1) or (2), or former section 625b.

(4) The secretary of state shall not issue a license under this act to a person whose license has been revoked under this act or denied under subsection (1)(d), (e), (h), or (i) until both of the following occur:

(a) The later of the following:

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

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

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

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

Sec. 317. (1) The secretary of state may suspend or revoke the right of a nonresident to operate a motor vehicle in this state for a cause for which the license of a resident driver may be suspended or revoked. A nonresident who drives a motor vehicle upon a highway when the privilege to drive has been suspended, revoked, or denied by the secretary of state is guilty of a misdemeanor punishable as provided in section 904.

(2) The secretary of state, upon receiving a record of the conviction, civil infraction determination, or forfeiture of bail in this state of a nonresident of a violation the record of which is required to be maintained under section 204a, may forward a certified copy of the record to the motor vehicle administrator or other appropriate officer in the state in which the person is a resident.

Sec. 319. (1) The secretary of state shall immediately suspend for a period of not less than 90 days or more than 2 years, the license of a person upon receiving a record of the conviction or probate court disposition of the person for any of the following crimes or attempts to commit any of the following crimes, whether the conviction or probate court disposition is under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

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

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

(c) A violation of section 324, 413, or 414 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.324, 750.413, and 750.414 of the Michigan Compiled Laws; or a violation of section 1 of Act No. 214 of the Public Acts of 1931, being section 752.191 of the Michigan Compiled Laws.

(d) Conviction upon 3 charges of reckless driving within the preceding 36 months.

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

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

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

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

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

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

(2) The secretary of state shall suspend the license of a person convicted of malicious destruction resulting from the operation of a motor vehicle under section 382 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, as amended, being section 750.382 of the Michigan Compiled Laws, for a period of not more than 1 year as ordered by the court as part of the sentence.

(3) The secretary of state shall immediately suspend the license of a person for the period specified in the certificate of conviction upon receipt of the person's license and certificate of conviction forwarded to the secretary of state pursuant to section 367c of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.367c of the Michigan Compiled Laws.

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

(a) For a period of not less than 90 days or more than 1 year, upon receiving a record of the conviction of the person for a violation of section 625(3), a local ordinance substantially corresponding to section 625(3), or a law of another state substantially corresponding to section 625(3), if the person has no prior convictions within 7 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b. However, if the person is convicted of a violation of section 625(3), a local ordinance substantially corresponding to section 625(3), or a law of another state substantially corresponding to section 625(3) for operating a vehicle when, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate the vehicle was visibly impaired, the secretary of state shall suspend the person's license under this subdivision for a period of not less than 6 months or more than 1 year.

(b) For a period of not less than 6 months or more than 2 years, if the person has the following convictions within a 7-year period, whether under the law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

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

(ii) Any combination of 2 convictions under section 625(3) or former section 625b.

(iii) One conviction under section 625(1) or former section 625(1) or (2) and 1 conviction under section 625(3) or former section 625b.

(iv) One conviction under section 625(4) or (5) followed by 1 conviction under section 625(3).

(5) Upon receipt of a certificate of conviction pursuant to section 33b(3) of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.33b of the Michigan Compiled Laws, or a local ordinance or law of another state substantially corresponding to section 33b(3) of Act No. 8 of the Public Acts of the Extra Session of 1933, the secretary of state shall suspend the person's operator's or chauffeur's license for a period of 90 days. A suspension under this subsection shall be in addition to any other suspension of the person's license.

(6) Upon receipt of the record of the conviction or probate court disposition of a person for a violation of section 602a of this act or section 479a(1), (4), or (5) of Act No. 328 of the Public Acts of 1931, being section 750.479a of the Michigan Compiled Laws, the secretary of state immediately shall suspend the license of the person for the period ordered by the court as part of the sentence or disposition.

(7) Except as provided in subsection (9), a suspension pursuant to this section shall be imposed notwithstanding a court order issued under section 625(1), (3), (4), or (5), or section 625b, or a local ordinance substantially corresponding to section 625(1) or (3) or section 625b.

(8) If the secretary of state receives records of more than 1 conviction or probate court disposition of a person resulting from the same incident, a suspension shall be imposed only for the violation to which the longest period of suspension applies under this section.

(9) The secretary of state may waive a suspension of a person's license imposed under subsection (4)(a) or (b) or grant restrictions if the person submits proof that a court revoked, suspended, or restricted his or her license for a period equal to or greater than the period of a suspension prescribed under subsection (4)(a) or (b) for the violation and that the revocation, suspension, or restriction was served for the violation.

Sec. 319e. (1) Except as otherwise provided in this section, upon receipt of an abstract of conviction for a person for an attempt to violate, a conspiracy to violate, or a violation of part 74 or section 17766a of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 to 333.7461 and 333.17766a of the Michigan Compiled Laws, or of a local ordinance that prohibits conduct prohibited under part 74 or section 17766a of Act No. 368 of the Public Acts of 1978, the secretary of state shall immediately suspend the license of the person for the period specified in the abstract of conviction.

(2) Except as otherwise provided in this section, upon receipt of an abstract of conviction for a person for an attempt to violate, a conspiracy to violate, or a violation of a law of another state that regulates the possession, distribution, manufacture, cultivation, sale, or transfer of a substance the possession of which is prohibited under the controlled substances act; or for an attempt to violate, a conspiracy to violate, or a violation of the controlled substances act, title II of the comprehensive drug abuse prevention and control act of 1970, Public Law 91-513, 84 Stat. 1242, the secretary of state shall immediately suspend the license of the person, as follows:

(a) For a period of 6 months, if the person does not have a prior conviction within 7 years of the violation.

(b) For a period of 1 year, if the person has 1 or more prior convictions within 7 years of the violation.

(3) The secretary of state may waive the suspension of a person's license imposed under subsection (2) or grant restrictions if the person convicted of a violation described in subsection (2) submits proof that he or she served a term of imprisonment that exceeded 1 year for the violation, or submits proof of both of the following:

(a) That a court revoked, suspended, or restricted his or her license for a period equal to or greater than the period of a suspension prescribed under subsection (2) for the violation.

(b) That the revocation, suspension, or restriction described in subdivision (a) was served for the violation.

(4) The secretary of state shall not suspend the license of a person if the person is sentenced to life imprisonment or a minimum term of imprisonment that exceeds 1 year for an attempt to violate, a conspiracy to violate, or a violation of part 74 or section 17766a of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 to 333.7461 and section 333.17766a of the Michigan Compiled Laws, or a law of another state that prohibits conduct prohibited under part 74 or section 17766a of Act No. 368 of the Public Acts of 1978.

(5) As used in this section:

(a) "Prior conviction" means either of the following:

(i) A conviction for an attempt to violate, a conspiracy to violate, or a violation of part 74 or section 17766a of Act No. 368 of the Public Acts of 1978, a local ordinance that prohibits conduct prohibited under part 74 or section 17766a of Act No. 368 of the Public Acts of 1978, or a law of another state that prohibits conduct prohibited under part 74 or section 17766a of Act No. 368 of the Public Acts of 1978.

(ii) A conviction for an attempt to violate, a conspiracy to violate, or a violation of the controlled substances act, title II of the comprehensive drug abuse prevention and control act of 1970, Public Law 91-513, 84 Stat. 1242.

(b) "Substance the possession of which is prohibited under the controlled substances act" means that term as defined in 23 C.F.R. 1212.3.

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

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

(3) The secretary of state shall assess points and take licensing action, including suspending, revoking, or denying a license under this act, according to the law in effect at the time of the conspiracy to commit the offense or at the time the offense was committed or attempted or the civil infraction occurred.

(4) Judicial review of an administrative licensing sanction under section 303 shall be governed by the law in effect at the time the offense was committed or attempted.

Sec. 323. (1) Except as provided in subsections (5) and (9), a person who is aggrieved by a final determination of the secretary of state denying the person an operator's or chauffeur's license, a vehicle group designation, or an indorsement on a license or revoking, suspending, or restricting an operator's or chauffeur's license, vehicle group designation, or an indorsement may petition for a review of the determination in the circuit court in the county where the person was arrested if the denial or suspension was imposed pursuant to section 625f or pursuant to the order of a trial court under section 328 or, in all other cases, in the circuit court in the county of residence of the person. The petition shall be filed within 63 days after the determination is made except that for good cause shown the court may allow the petition to be filed within 182 days after the determination is made. As provided in section 625f, a peace officer who is aggrieved by a determination of a hearing officer in favor of a person who requested a hearing under section 625f may, with the consent of the prosecuting attorney, petition for review of the determination in the circuit court in the county where the arrest was made. The petition shall be filed within 63 days after the determination is made except that for good cause shown the court may allow the petition to be filed within 182 days after the determination is made.

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

(3) Except as otherwise provided in this section, the court may take testimony and examine into all the facts and circumstances incident to the denial, suspension, restriction, or revocation of the person's license. The court may affirm, modify, or set aside the restriction, suspension, revocation, or denial except that the court shall not order the secretary of state to issue a restricted or unrestricted chauffeur's license that would permit a person to drive a truck or truck tractor, including a trailer, that hauls a hazardous material. The order of the court shall be duly entered and the petitioner shall file a certified copy of the order with the secretary of state's office in Lansing within 7 days after entry of the order.

(4) In reviewing a determination under section 625f, the court shall confine its consideration to 1 or both of the following:

(a) A review of the record prepared pursuant to section 625f(3) to determine whether the hearing officer properly determined the issues enumerated in section 625f.

(b) A determination of whether to order the issuance of a restricted license as provided in section 323c.

(5) This section does not apply to a denial, revocation, suspension, or restriction imposed pursuant to a court order issued as part of the sentence for a conviction under either of the following:

(a) Section 625, section 625m, former section 625(1) or (2), or former section 625b, or a local ordinance substantially corresponding to section 625(1), (2), or (3), section 625m, former section 625(1) or (2), or former section 625b.

(b) Part 74 or section 17766a of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 to 333.7461 and section 333.17766a of the Michigan Compiled Laws, or a local ordinance that prohibits conduct prohibited under part 74 or section 17766a of Act No. 368 of the Public Acts of 1978.

(6) In reviewing a determination resulting in a denial or revocation under section 303(1)(d) or (e) or 303(2)(c), (d), or (e), the court shall confine its consideration to a review of the record prepared pursuant to section 322 or the driving record created under section 204a, and shall not grant relief pursuant to subsection (3). The court shall set aside the determination of the secretary of state only if substantial rights of the petitioner have been prejudiced because the determination is any of the following:

(a) In violation of the Constitution of the United States, of the state constitution of 1963, or of a statute.

(b) In excess of the statutory authority or jurisdiction of the secretary of state.

(c) Made upon unlawful procedure resulting in material prejudice to the petitioner.

(d) Not supported by competent, material, and substantial evidence on the whole record.

(e) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.

(f) Affected by other substantial and material error of law.

(7) This section does not apply to a denial, revocation, suspension, or restriction imposed pursuant to the financial responsibility act contained in chapter V.

(8) This section does not apply to a suspension, revocation, or denial of a vehicle group designation imposed pursuant to section 312f, 319a, or 319b.

(9) This section does not apply to a suspension or denial of a license imposed pursuant to section 303(1)(n) or 319e.

Sec. 323d. (1) The drug case information management fund is created as a separate fund in the state treasury. The purpose of the fund is to help defray the costs of complying with requirements for the timely management and reporting to the secretary of state of information concerning cases involving an attempt to violate, a conspiracy to violate, or a violation of part 74 or section 17766a of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 to 333.7461 and 333.17766a of the Michigan Compiled Laws, or of a local ordinance that prohibits conduct prohibited under part 74 or section 17766a of Act No. 368 of the Public Acts of 1978. Money in the fund shall be expended only as provided in subsection (3).

(2) The state treasurer shall credit the drug case information management fund with the money collected from license reinstatement fees as provided in section 320e(2). The state treasurer may invest money contained in the drug case information management fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The state treasurer shall credit all earnings from the fund to the fund. Money in the fund at the end of the fiscal year shall remain in the fund and shall not revert to the general fund.

(3) The state court administrator, at the direction of the supreme court and upon confirmation of the amount by the state treasurer, shall distribute from the drug case information management fund the total amount available in a fiscal year to each circuit of the circuit court, each district of the district court, and each probate court as provided in this subsection. The state court administrator, after reimbursement of costs as provided in this subsection, shall distribute the balance of the drug case information management fund annually after costs are disbursed to each circuit of the circuit court, each district of the district court, and each probate court in an amount determined by multiplying the amount available for distribution by a fraction, the numerator of which is the number of cases in which the defendant was charged with an attempt to violate, a conspiracy to violate, or a violation of part 74 or section 17766a of Act No. 368 of the Public Acts of 1978, or a local ordinance that prohibits conduct prohibited under part 74 or section 17766a of Act No. 368 of the Public Acts of 1978, in the prior calendar year in that circuit of the circuit court, that district of the district court, or that probate court, as certified by the state court administrator, and the denominator of which is the total number of cases in all circuits of the circuit court, all districts of the district court, and all probate courts in which the defendant was charged with an attempt to violate, a conspiracy to violate, or a violation of part 74 of section 17766a of Act No. 368 of the Public Acts of 1978, or a local ordinance that prohibits conduct prohibited under part 74 or section 17766a of Act No. 368 of the Public Acts of 1978. The state court administrative office shall be reimbursed annually from the drug case information management fund for all reasonable costs associated with the administration of this section, including judicial and staff training, on-site management assistance, forms development and conversion, and software development and conversion.

Sec. 625. (1) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state if either of the following applies:

(a) The person is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance.

(b) The person has a blood alcohol content of 0.10% or more by weight of alcohol.

(2) The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this state by a person who is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or who has a blood alcohol content of 0.10% or more by weight of alcohol.

(3) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles within this state when, due to the consumption of an intoxicating liquor, a controlled substance, or a combination of an intoxicating liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

(4) A person, whether licensed or not, who operates a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state, under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or with a blood alcohol content of 0.10% or more by weight of alcohol, and by the operation of that motor vehicle causes the death of another person is guilty of a felony, punishable by imprisonment for not more than 15 years, or a fine of not less than \$2,500.00 or more than \$10,000.00, or both.

(5) A person, whether licensed or not, who operates a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state, under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or with a blood alcohol content of 0.10% or more by weight of alcohol, and by the operation of that motor vehicle causes a long-term incapacitating injury to another person is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. As used in this subsection, "long-term incapacitating injury" means an injury that has caused a person to be in a comatose state, a quadriplegic state, a hemiplegic state, or a paraplegic state, which state is likely to continue for 1 year or more.

(6) If a person is convicted of violating subsection (1), the following shall apply:

(a) Except as otherwise provided in subdivisions (b) and (d), the person is guilty of a misdemeanor, and may be punished by 1 or more of the following:

(i) Service to the community for a period of not more than 45 days.

(ii) Imprisonment for not more than 90 days.

(iii) A fine of not less than \$100.00 or more than \$500.00.

(b) If the violation occurs within 7 years of a prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00 and either of the following:

(i) Performing service to the community for a period of not less than 10 days or more than 90 days and may be imprisoned for not more than 1 year.

(ii) Imprisonment for not less than 48 consecutive hours or more than 1 year, and may be sentenced to service to the community for a period of not more than 90 days.

(c) A term of imprisonment imposed under subdivision (b)(ii) shall not be suspended.

(d) If the violation occurs within 10 years of 2 or more prior convictions, the person is guilty of a felony, and shall be sentenced to imprisonment for not less than 1 year or more than 5 years, or a fine of not less than \$500.00 or more than \$5,000.00, or both.

(e) A person sentenced to perform service to the community under this subsection shall not receive compensation, and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

(f) As used in this subsection, "prior conviction" means a conviction for a violation of section 625(1), (4), or (5), or former section 625(1) or (2), a local ordinance substantially corresponding to section 625(1), or former section 625(1) or (2), or a law of another state substantially corresponding to section 625(1), (4), or (5), or former section 625(1) or (2).

(7) In addition to imposing the sanctions prescribed under subsections (4), (5), and (6), the court may, pursuant to the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 760.1 to 776.21 of the Michigan Compiled Laws, order the person to pay the costs of the prosecution.

(8) The court shall impose license sanctions pursuant to section 625b.

(9) A person who is convicted of violating subsection (2) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than \$100.00 or more than \$500.00, or both.

(10) If a person is convicted of violating subsection (3), the following shall apply:

(a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by 1 or more of the following:

- (i) Service to the community for a period of not more than 45 days.
- (ii) Imprisonment for not more than 90 days.
- (iii) A fine of not more than \$300.00.

(b) If the violation occurs within 7 years of 1 prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:

(i) Performing service to the community for a period of not less than 10 days or more than 90 days and may be sentenced to imprisonment for not more than 1 year.

(ii) Imprisonment for not more than 1 year and may be sentenced to community service for not more than 90 days.

(c) If the violation occurs within 10 years of 2 or more prior convictions, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:

(i) Performing service to the community for a period of not less than 10 days or more than 90 days and may be sentenced to imprisonment for not more than 1 year.

(ii) Imprisonment for not more than 1 year and may be sentenced to community service for not more than 90 days.

(d) As used in subdivisions (b) and (c), "prior conviction" means a conviction for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b or a local ordinance substantially corresponding to section 625(1), or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b.

(e) In addition to imposing the sanctions prescribed in subdivision (a), (b), or (c), the court may, pursuant to the code of criminal procedure, Act No. 175 of the Public Acts of 1927, order the person to pay the costs of the prosecution.

(f) The court shall order the secretary of state to impose license sanctions pursuant to section 625b.

(g) A person sentenced to perform service to the community under this subsection shall not receive compensation, and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

(11) If the prosecuting attorney intends to seek an enhanced sentence under subsection (6)(b) or (d) or (10)(b) or (c) based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information filed in district court, circuit court, recorder's court, municipal court, or probate court a statement listing the defendant's prior convictions.

(12) A prior conviction shall be established at sentencing by 1 or more of the following:

- (a) An abstract of conviction.
- (b) A copy of the defendant's driving record.
- (c) An admission by the defendant.

(13) A person who is convicted of an attempted violation of subsection (1) or (3), or a local ordinance substantially corresponding to subsection (1) or (3) shall be punished as if the offense had been completed.

(14) When assessing points and taking licensing action under this act, the secretary of state and the court shall treat a conviction of an attempted violation of subsection (1) or (3) or a local ordinance substantially corresponding to subsection (1) or (3), or a law of another state substantially corresponding to subsection (1) or (3) the same as if the offense had been completed.

(15) Except as otherwise provided in subsection (17), if a person is charged with operating a vehicle while under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (1) or a local ordinance substantially corresponding to subsection (1), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether the person was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

(16) Except as otherwise provided in subsection (17), if a person is charged with operating a vehicle while his or her ability to operate the vehicle was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (3) or a local ordinance substantially corresponding to subsection (3), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate a motor vehicle was visibly impaired at the time of the violation.

(17) A special verdict described in subsections (15) and (16) is not required if a jury is instructed to make a finding solely as to either of the following:

(a) Whether the defendant was under the influence of a controlled substance or of a combination of intoxicating liquor and a controlled substance at the time of the violation.

(b) Whether the defendant was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

(18) If a jury or court makes a finding under subsection (15), (16), or (17) that the defendant operated a motor vehicle under the influence of or while impaired due to the consumption of a controlled substance, or combination of a controlled substance and an intoxicating liquor, the court shall do both of the following:

(a) Report the finding to the secretary of state.

(b) Forward to the department of state police, on a form or forms prescribed by the state court administrator, a record that specifies the penalties imposed by the court, including any term of imprisonment and any licensing sanction imposed under section 625b.

(19) Except as otherwise provided by law, a record described in subsection (18)(b) is a public record, and the department of state police shall retain the information contained on that record for a period of not less than 7 years.

Sec. 625b. (1) A person arrested for a misdemeanor violation of section 625(1) or (3), or section 625m, or a local ordinance substantially corresponding to section 625(1) or (3), or section 625m, shall be arraigned on the citation, complaint, or warrant not more than 14 days after the date of arrest or, if an arrest warrant is reissued, not more than 14 days after the reissued arrest warrant is served.

(2) The court shall schedule a pretrial conference between the prosecuting attorney, the defendant, and the defendant's attorney in each case in which the defendant is charged with a misdemeanor violation of section 625(1) or (3), or section 625m, or a local ordinance substantially corresponding to section 625(1) or (3), or section 625m. The pretrial conference shall be held not more than 35 days after the date of the person's arrest for the violation or, if an arrest warrant is reissued, not more than 35 days after the date the reissued arrest warrant is served, unless the court has only 1 judge who sits in more than 1 location in that district, in which case the pretrial conference shall be held not more than 42 days after the date of the person's arrest for the violation or, if an arrest warrant is reissued, not more than 42 days after the date the reissued arrest warrant is served. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days. The court shall, except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, finally adjudicate, by a plea of guilty or nolo contendere, or the entry of a verdict, or by other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 625(1) or (3), or section 625m, or a local ordinance substantially corresponding to section 625(1) or (3), or section 625m, within 77 days after the person is arrested for the violation or, if an arrest warrant is reissued, not more than 77 days after the date the reissued arrest warrant is served.

(3) Before accepting a plea of guilty or nolo contendere under section 625, or a local ordinance substantially corresponding to section 625(1), (2), or (3), the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation, and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state pursuant to section 204a.

(4) Before imposing sentence, other than court-ordered license sanctions, for a violation of section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

(5) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the Michigan driving record of the person, except those convictions which, upon motion by the defendant, are determined by the court to be constitutionally invalid, and shall impose the following licensing sanctions:

(a) For a conviction under section 625(4) or (5), the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

(b) For a conviction under section 625(1) or a local ordinance substantially corresponding to section 625(1):

(i) If the court finds that the person has no prior convictions within 7 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section

625(1) or (3), or former section 625(1) or (2) or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. If the court finds compelling circumstances under subsection (9) sufficient to warrant the issuance of a restricted license to a person, the court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension, except that a restricted license shall not be issued during the first 30 days of the period of suspension.

(ii) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 625(3) or former section 625b, a local ordinance substantially corresponding to section 625(3) or former section 625b, or a law of another state substantially corresponding to section 625(3) or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. If the court finds compelling circumstances under subsection (9) sufficient to warrant the issuance of a restricted license to a person, the court may order the secretary of state to issue to the person a restricted license during all or any portion of the period of suspension, except that a restricted license shall not be issued during the first 60 days of the period of suspension.

(iii) If the court finds that the person has 1 or more prior convictions within 7 years for a violation of section 625(1), (4), or (5), or former section 625(1) or (2), a local ordinance substantially corresponding to section 625(1) or former section 625(1) or (2), or a law of another state substantially corresponding to section 625(1), (4), or (5), or former section 625(1) or (2), or that the person has 2 or more prior convictions within 10 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

(c) For a conviction under section 625(3) or a local ordinance substantially corresponding to section 625(3):

(i) If the court finds that the convicted person has no prior conviction within 7 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 90 days or more than 1 year. However, if the person is convicted of a violation of section 625(3) or a local ordinance substantially corresponding to section 625(3) for operating a vehicle when, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate the vehicle was visibly impaired, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 1 year. If the court finds compelling circumstances under subsection (9) sufficient to warrant the issuance of a restricted license to a person, the court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension.

(ii) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. If the court finds compelling circumstances under subsection (9) sufficient to warrant the issuance of a restricted license to a person, the court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension period, except that a restricted license shall not be issued during the first 60 days of the period of suspension.

(iii) If the court finds that the person has 2 or more prior convictions within 10 years for a violation of section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

(6) A restricted license issued pursuant to an order under subsection (5) shall permit the person to whom it is issued to do 1 or more of the following:

- (a) Drive to and from the person's residence and work location.
- (b) Drive in the course of the person's employment or occupation.
- (c) Drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the court.

(d) Drive to and from the person's residence and the court probation department, or a court-ordered community service program, or both.

(e) Drive to and from the person's residence and an educational institution at which the person is enrolled as a student.

(7) The court may order that the restricted license issued pursuant to subsection (5) include the requirement that the person shall not operate a motor vehicle unless the vehicle is equipped with a functioning ignition interlock device. The device shall be set to render the motor vehicle inoperable if the device detects a blood alcohol content of 0.02% or more by weight of alcohol in the person who offers a breath sample. The court may order installation of an ignition interlock device on any motor vehicle that the person owns or operates, the costs of which shall be borne by the person whose license is restricted.

(8) The court shall not order the secretary of state under subsection (5) to issue a restricted license that would permit a person to operate a commercial motor vehicle that hauls hazardous materials.

(9) The court shall not order the secretary of state to issue a restricted license unless the person states under oath, and the court finds pursuant to testimony taken in open court or pursuant to statements contained in a sworn affidavit on a form prescribed by the state court administrator, that both of the following are true:

(a) The person needs vehicular transportation to and from his or her work location, place of alcohol or drug education treatment, court probation department, court-ordered community service program, or educational institution, or in the course of the person's employment or occupation.

(b) The person is unable to take public transportation and does not have any family members or other individuals able to provide transportation to a destination or for a purpose described in subdivision (a).

(10) The court order issued under subsection (5) and the restricted license shall indicate the permitted destinations of the person or the permitted purposes for which the person may operate a vehicle, the approved route or routes if specified by the court, and permitted times of travel.

(11) As used in this section, "work location" means, as applicable, either the specific place or places of employment, or the territory or territories regularly visited by the person in pursuance of the person's occupation, or both.

(12) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 625(1), (3), (4), or (5), or a local ordinance substantially corresponding to section 625(1) or (3), the person shall surrender to the court his or her operator's or chauffeur's license or permit. The court shall immediately destroy the license or permit and forward an abstract of conviction with court-ordered license sanctions to the secretary of state. Upon receipt of, and pursuant to, the abstract of conviction with court-ordered license sanctions, the secretary of state shall suspend or revoke the person's license and, if ordered by the court and the person is otherwise eligible for a license, issue to the person a restricted license stating the limited driving privileges indicated on the abstract. If the judgment and sentence is appealed to circuit court, the court may, ex parte, order the secretary of state to stay the suspension, revocation, or restricted license issued pursuant to this section pending the outcome of the appeal.

(13) In addition to any other suspension or revocation ordered under this section and as part of the sentence imposed upon a person who violates section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3) while operating a commercial motor vehicle, the court shall order the secretary of state to suspend the vehicle group designations on the person's operator's or chauffeur's license in accordance with section 319b(1)(c), except that if the vehicle was transporting hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199, the court shall order the secretary of state to suspend the vehicle group designations on the person's operator's or chauffeur's license in accordance with section 319b(1)(d). The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle.

(14) In addition to any other suspension or revocation ordered under this section and as part of the sentence imposed upon a person who is convicted of a violation of section 625(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 625(1) or (3) while operating a commercial motor vehicle within 10 years of a prior conviction, the court shall order the secretary of state to revoke the vehicle group designations on the person's operator's or chauffeur's license in accordance with section 319b(1)(e). The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle. As used in this subsection, "prior conviction" means a conviction under section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3) or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), or former section 625(1) or (2), or former section 625b involving the operation of a commercial motor vehicle, or a conviction under section 625m, a local ordinance substantially corresponding to section 625m, or a law of another state substantially corresponding to section 625m.

Sec. 732. (1) Each municipal judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with or cited for a violation of this act or of a law corresponding to this act regulating the operation of vehicles on highways.

(2) Within 14 days after the conviction or forfeiture of bail of a person, or entry of a civil infraction determination, default judgment, or probate court order of disposition for a child found to be within the provisions of chapter XIIA of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.28 of the Michigan Compiled Laws, upon a charge of, or citation for, violating this act or a local ordinance corresponding to this act regulating the operation of vehicles on highways, and, for each case charging a violation of section 625(1), (3), (4), or (5), or a local ordinance substantially corresponding to section 625(1) or (3) in which the charge is dismissed or the defendant is acquitted, except as provided in subsection (15), the municipal judge or clerk of the court of record shall prepare and immediately forward to the secretary of state an abstract of the record of the court for the case. The abstract shall be certified by signature, stamp, or facsimile signature by the person required to prepare the abstract to be true and correct. If a city or village department, bureau, or person is authorized to accept a payment of money as a settlement for a violation of a local ordinance corresponding to this act, the city or village department, bureau, or person shall send a full report of each case in which a person pays any amount of money to the city or village department, bureau, or person to the secretary of state upon a form prescribed by the secretary of state.

(3) The abstract or report required under this section shall be made upon a form furnished by the secretary of state and shall include all of the following:

- (a) The name, address, and date of birth of the person charged or cited.
- (b) The number of the person's operator's or chauffeur's license, if any.
- (c) The date and nature of the violation.
- (d) The type of vehicle driven at the time of the violation and, if the vehicle is a commercial motor vehicle, that vehicle's group designation and indorsement classification.
- (e) The date of the conviction, finding, forfeiture, judgment, or determination.
- (f) Whether bail was forfeited.
- (g) Any license revocation, restriction, suspension, or denial ordered by the court pursuant to this act.
- (h) Other information considered necessary to the secretary of state.

(4) The clerk of the court also shall forward an abstract of the record of the court to the secretary of state upon the conviction of a person or entry of a probate court order of disposition for a child found to be within the provisions of chapter XIIA of Act No. 288 of the Public Acts of 1939 involving any of the following:

(a) A violation of section 324, 413, 414, or 479a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.324, 750.413, 750.414, and 750.479a of the Michigan Compiled Laws.

(b) A violation of section 1 of Act No. 214 of the Public Acts of 1931, being section 752.191 of the Michigan Compiled Laws.

(c) An attempt to violate, a conspiracy to violate, or a violation of part 74 or section 17766a of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 to 333.7461 and 333.17766a of the Michigan Compiled Laws, or a local ordinance that prohibits conduct prohibited under part 74 or section 17766a of Act No. 368 of the Public Acts of 1978, unless the convicted person is sentenced to life imprisonment or a minimum term of imprisonment that exceeds 1 year for the offense.

(d) An attempt to commit any of the offenses described in subdivision (a) or (b).

(5) As used in subsections (6) to (8), "felony in which a motor vehicle was used" means a felony during the commission of which the person operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

- (a) The vehicle was used as an instrument of the felony.
- (b) The vehicle was used to transport a victim of the felony.
- (c) The vehicle was used to flee the scene of the felony.
- (d) The vehicle was necessary for the commission of the felony.

(6) If a person is charged with a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319(1)(a) to (e), the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

"You are charged with the commission of a felony in which a motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.319 of the Michigan Compiled Laws, your driver's license shall be suspended by the secretary of state."

(7) If a child is accused of an act the nature of which constitutes a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319(1)(a) to (e), the prosecuting attorney or juvenile court shall include on the petition filed in the probate court:

"You are accused of an act the nature of which constitutes a felony in which a motor vehicle was used. If the accusation is found to be true and the judge or referee finds that the nature of the act constitutes a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.319 of the Michigan Compiled Laws, your driver's license shall be suspended by the secretary of state."

(8) If the judge or juvenile court referee determines as part of the sentence or disposition that the felony for which the defendant was convicted or adjudicated and with respect to which notice was given pursuant to subsection (6) or (7) is a felony in which a motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction or adjudication to the secretary of state.

(9) As used in subsections (10) and (11), "Felony in which a commercial motor vehicle was used" means a felony during the commission of which the person operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

- (a) The vehicle was used as an instrument of the felony.
- (b) The vehicle was used to transport a victim of the felony.
- (c) The vehicle was used to flee the scene of the felony.
- (d) The vehicle was necessary for the commission of the felony.

(10) If a person is charged with a felony in which a commercial motor vehicle was used and for which a vehicle group designation on a license is subject to suspension or revocation under section 319b(1)(c)(iii), 319b(1)(d), or 319b(1)(e)(iii) or (vi), the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

"You are charged with the commission of a felony in which a commercial motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a commercial motor vehicle was used, as defined in section 319b of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.319b of the Michigan Compiled Laws, all vehicle group designations on your driver's license shall be suspended or revoked by the secretary of state."

(11) If the judge determines as part of the sentence that the felony for which the defendant was convicted and with respect to which notice was given pursuant to subsection (10) is a felony in which a commercial motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.

(12) Every person required to forward abstracts to the secretary of state under this section shall certify for the period from January 1 through June 30 and for the period from July 1 through December 31 that all abstracts required to be forwarded during the period have been forwarded. The certification shall be filed with the secretary of state not later than 28 days after the end of the period covered by the certification. The certification shall be made upon a form furnished by the secretary of state and shall include all of the following:

- (a) The name and title of the person required to forward abstracts.
- (b) The court for which the certification is filed.
- (c) The time period covered by the certification.
- (d) The following statement:

"I certify that all abstracts required by section 732 of the Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period _____ through _____ have been forwarded to the secretary of state."

- (e) Other information the secretary of state considers necessary.
- (f) The signature of the person required to forward abstracts.

(13) The failure, refusal, or neglect of a person to comply with this section shall constitute misconduct in office and shall be grounds for removal from office.

(14) Except as provided in subsection (15), the secretary of state shall keep all abstracts received under this section at the secretary of state's main office and the abstracts shall be open for public inspection during the office's usual business hours. Each abstract shall be entered upon the master driving record of the person to whom it pertains.

(15) Except for controlled substance offenses described in subsection (4), the court shall not submit, and the secretary of state shall discard and not enter on the master driving record, an abstract for a conviction, civil infraction determination, or probate court order of disposition for any of the following offenses:

- (a) The parking or standing of a vehicle.
- (b) A nonmoving violation that is not the basis for the secretary of state's suspension, revocation, or denial of an operator's or chauffeur's license.

(c) A violation of chapter II that is not the basis for the secretary of state's suspension, revocation, or denial of an operator's or chauffeur's license.

(d) A pedestrian, passenger, or bicycle violation.

(e) A violation of section 710e.

(16) The secretary of state shall discard and not enter on the master driving record an abstract for a bond forfeiture that occurred outside this state. However, the secretary of state shall retain and enter on the master driving record an abstract of an out-of-state bond forfeiture for an offense that occurred after January 1, 1990 in connection with the operation of a commercial motor vehicle.

(17) The secretary of state shall inform the courts of this state of the nonmoving violations and violations of chapter II that are used by the secretary of state as the basis for the suspension, restriction, revocation, or denial of an operator's or chauffeur's license.

(18) If a conviction, civil infraction determination, or probate court order of disposition is reversed upon appeal, the person whose conviction, determination, or order of disposition has been reversed may serve on the secretary of state a certified copy of the order of reversal, and the secretary of state shall enter the order in the proper book or index in connection with the record of the conviction, civil infraction determination, or probate court order of disposition.

(19) The secretary of state may permit a city or village department, bureau, person, or court to modify the requirement as to the time and manner of reporting a conviction, civil infraction determination, settlement, or probate court order of disposition to the secretary of state if the modification will increase the economy and efficiency of collecting and utilizing the records. If the permitted abstract of court record reporting a conviction, civil infraction determination, settlement, or probate court order of disposition originates as a part of the written notice to appear, authorized in section 728(1) or 742(1), the form of the written notice and report shall be as prescribed by the secretary of state.

Section 2. This amendatory act shall take effect September 1, 1994.

Section 3. The licensing sanctions prescribed in sections 23a, 44a, 319e, and 323d of Act No. 300 of the Public Acts of 1949, being sections 257.23a, 257.44a, 257.319e, and 257.323d of the Michigan Compiled Laws, as added by this amendatory act, apply to violations of law that occur on or after the effective date of this amendatory act.

Section 4. This amendatory act shall not take effect unless all of the following conditions are met:

(a) Senate Bill No. 267 of the 87th Legislature is enacted into law.

(b) House Bill No. 4075 of the 87th Legislature is enacted into law.

(c) House Concurrent Resolution No. 73 of the 87th Legislature is adopted by both houses of the legislature, and the governor transmits to the United States secretary of transportation and files with the secretary of state a certification specified in 23 U.S.C. 159.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.