

Act No. 142
Public Acts of 2005
Approved by the Governor
September 29, 2005
Filed with the Secretary of State
September 29, 2005
EFFECTIVE DATE: September 29, 2005

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2005**

Introduced by Reps. LaJoy and Gleason

ENROLLED HOUSE BILL No. 4470

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 303, 307, and 812 (MCL 257.303, 257.307, and 257.812), sections 303 and 812 as amended by 2004 PA 362 and section 307 as amended by 2004 PA 502, and by adding section 252c; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 252c. (1) When a vehicle is removed from private property at the direction of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle immediately shall notify the police agency from whose jurisdiction the vehicle was towed. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.

(2) Upon receipt of the notification described in subsection (1), the police agency immediately shall do all of the following:

- (a) Determine if the vehicle has been reported stolen.
- (b) Enter the vehicle into the law enforcement information network.

(3) The owner of the vehicle removed as described in subsection (1) may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian shall notify the police agency of the disposition of the vehicle.

(4) If the vehicle described in subsection (1) is not claimed by the owner within 7 days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in section 252a(4)(c) to (9) apply.

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

- (a) A person, as an operator, who is less than 18 years of age, except as otherwise provided in this act.
- (b) A person, as a chauffeur, who is less than 18 years of age, except as otherwise provided in this act.
- (c) A person whose license is suspended, revoked, denied, or canceled in any state. If the suspension, revocation, denial, or cancellation is not from the jurisdiction that issued the last license to the person, the secretary of state may issue a license after the expiration of 5 years from the effective date of the most recent suspension, revocation, denial, or cancellation.

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

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

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

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

(h) A nonresident including a foreign exchange student.

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

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

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

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

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

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

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

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

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

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

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

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

(i) A violation or attempted violation of section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.

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

(iii) Former section 625b.

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

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

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

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

(i) A violation or attempted violation of section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.

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

(iii) Former section 625b.

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

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

(a) The later of the following:

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

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

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

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

(5) The secretary of state may deny issuance of an operator's license as follows:

(a) Until the age of 17, to a person not licensed under this act who was convicted of or received a juvenile disposition for violating or attempting to violate section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school when he or she was less than 14 years of age. A person not issued a license under this subdivision is not eligible to begin graduated licensing training until he or she attains 16 years of age.

(b) To a person less than 21 years of age not licensed under this act who was convicted of or received a juvenile disposition for violating or attempting to violate section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school when he or she was less than 14 years of age or older, until 3 years after the date of the conviction or juvenile disposition. A person not issued a license under this subdivision is not eligible to begin graduated licensing training or otherwise obtain an original operator's or chauffeur's license until 3 years after the date of the conviction or juvenile disposition.

(6) The secretary of state shall deny issuance of a vehicle group designation to a person if the person has been disqualified by the United States secretary of transportation from operating a commercial motor vehicle.

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

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

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

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

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

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

Sec. 307. (1) An applicant for an operator's or chauffeur's license shall supply a birth certificate attesting to his or her age or other sufficient documents or identification as the secretary of state may require. An application for an operator's or chauffeur's license shall be made in a manner prescribed by the secretary of state and shall contain all of the following:

(a) The applicant's full name, date of birth, residence address, height, sex, eye color, signature, and, beginning January 1, 2007, intent to be an organ donor, other information required or permitted on the license under this chapter, and, to the extent required to comply with federal law, the applicant's social security number. The applicant may provide a mailing address if the applicant receives mail at an address different from his or her residence address.

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

"NOTICE: Michigan law requires that the same address be used for voter registration and driver license purposes. Therefore, if the residence address you provide in this application differs from your voter registration address as it appears on the qualified voter file, the secretary of state will automatically change your voter

registration to match the residence address on this application, after which your voter registration at your former address will no longer be valid for voting purposes. A new voter registration card, containing the information of your polling place, will be provided to you by the clerk of the jurisdiction where your residence address is located.”.

(c) For an original or renewal operator’s or chauffeur’s license with a vehicle group designation or indorsement, the names of all states where the applicant has been licensed to drive any type of motor vehicle during the previous 10 years.

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

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

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

(iii) The applicant is not subject to disqualification by the United States secretary of transportation, or a suspension, revocation, or cancellation under any state law for conviction of an offense described in section 312f or 319b.

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

(e) An applicant for an operator’s or chauffeur’s license with a vehicle group designation and a hazardous material indorsement shall provide his or her fingerprints as prescribed by state and federal law.

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

(3) An application shall contain a signature or verification and certification by the applicant, as determined by the secretary of state, and shall be accompanied by the proper fee. The secretary of state shall collect the application fee with the application. The secretary of state shall refund the application fee to the applicant if the license applied for is denied, but shall not refund the fee to an applicant who fails to complete the examination requirements of the secretary of state within 90 days after the date of application for a license.

(4) In conjunction with the application for or, until January 1, 2007, the issuance of an operator’s or chauffeur’s license, the secretary of state shall do all of the following:

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

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

(ii) Information describing the organ, tissue, and eye donor registry program. The information required under this subparagraph includes the address and telephone number of Michigan’s federally designated organ procurement organization or its successor organization.

(iii) Information giving the applicant the opportunity to be placed on the registry described in subparagraph (ii).

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

(c) Inform the applicant that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the registry described in subdivision (a)(ii), the secretary of state will mark the applicant’s record for the registry.

(d) Provide the applicant with the opportunity to make a donation of \$1.00 or more to the organ and tissue donation education fund created under section 217o. A donation made under this subdivision shall be deposited in the state treasury to the credit of the organ and tissue donation education fund.

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

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

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

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

(6) Until January 1, 2007, if an applicant indicates a willingness under this section to have his or her name placed on the organ donor registry described in subsection (4)(a)(ii), the secretary of state shall within 10 days forward the applicant's name, address, and date of birth to the organ donor registry maintained by Michigan's federally designated organ procurement organization or its successor organization. The secretary of state may forward information under this subsection by mail or by electronic means. The secretary of state shall not maintain a record of the name or address of an individual who indicates a willingness to have his or her name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have his or her name placed on the organ donor registry that is obtained by the secretary of state under subsection (4) and forwarded under this subsection is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243. Beginning January 1, 2007, the secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the registry described in subsection (4)(a)(ii). Information about an applicant's indication of a willingness to have his or her name placed on the registry that is obtained by the secretary of state under subsection (4) and forwarded under subsection (14) is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243.

(7) If an application is received from a person previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record and other available information from the national driver register. When received, the driving record and other available information become a part of the driver's record in this state.

(8) If an application is received for an original, renewal, or upgrade of a vehicle group designation or indorsement, the secretary of state shall request the person's complete driving record from all states where the applicant was previously licensed to drive any type of motor vehicle over the last 10 years before issuing a vehicle group designation or indorsement to the applicant. If the applicant does not hold a valid commercial motor vehicle driver license from a state where he or she was licensed in the last 10 years, this complete driving record request must be made not earlier than 24 hours before the secretary of state issues the applicant a vehicle group designation or indorsement. For all other drivers, this request must be made not earlier than 10 days before the secretary of state issues the applicant a vehicle group designation or indorsement. The secretary of state shall also check the applicant's driving record with the national driver register and the federal commercial driver license information system before issuing that group designation or indorsement. If the application is for the renewal of a vehicle group designation or indorsement, and if the secretary of state enters on the person's historical driving record maintained under section 204a a notation that the request was made and the date of the request, the secretary of state is required to request the applicant's complete driving record from other states only once under this section.

(9) Except for a vehicle group designation or indorsement or as provided in this subsection, the secretary of state may issue a renewal operator's or chauffeur's license for 1 additional 4-year period by mail or by other methods prescribed by the secretary of state. The secretary of state may check the applicant's driving record through the national driver register and the commercial driver license information system before issuing a license under this section. The secretary of state shall issue a renewal license only in person if the person is a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card. If a license is renewed by mail or by other method, the secretary of state shall issue evidence of renewal to indicate the date the license expires in the future. The department of state police shall provide to the secretary of state updated lists of persons required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

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

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

(a) Compliance with 49 USC 31301 to 31317 and regulations and state law and rules related to this chapter.

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

(c) To check an applicant's driving record through the national driver register and the commercial driver license information system when issuing a license under this act.

(d) With the department of community health, for comparison with vital records maintained by the department of community health under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899.

(e) As otherwise required by law.

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

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

(14) Beginning January 1, 2007, the secretary of state shall maintain the organ, tissue, and eye donor registry in a manner that provides electronic access, including, but not limited to, transfer of data to this state's federally designated organ procurement organizations, their successor organizations, and tissue and eye banks with limitations on the use of and access to the donor registry as determined by the secretary of state.

Sec. 812. (1) Except as otherwise provided in subsection (2), for each duplicate license as provided in section 313, and for each correction of a license, a person may apply for renewal of the license and pay the renewal fee prescribed in this act or the person may, at his or her option and upon payment of the fee prescribed in this section, apply for a duplicate license which expires on the same date as the license which was lost, destroyed, mutilated, or became illegible. The secretary of state may check the applicant's driving record through the national driver register and the commercial driver license information system before issuing a license under this section. The fee for a duplicate chauffeur's license is \$18.00. The fee for a duplicate operator's license is \$9.00. A renewal fee shall not be charged for a change of address, a correction required to correct a department error, or, beginning January 1, 2007, to add or remove a heart insignia described in section 310.

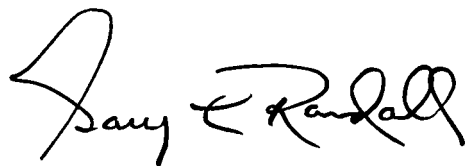
(2) Except with regard to a person who is less than 21 years of age or a person with a license containing a hazardous material indorsement, for each duplicate license as provided in section 313, and for each correction of a license, a person shall apply for renewal of the license and pay the renewal fee prescribed in this act if the license was due to expire within the next 12 months. Except as otherwise provided in this act, a license renewed under this subsection shall be renewed for the combined period of the time remaining on the license before its renewal and the 4-year renewal period.

Enacting section 1. Section 252c of the Michigan vehicle code, 1949 PA 300, MCL 257.252c, is repealed effective October 1, 2005.

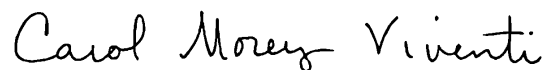
Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 301.
- (b) House Bill No. 4082.
- (c) House Bill No. 4469.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

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Governor