

(b) Has the personal property or other valuable thing available on a website for viewing by photograph, if available, by the general public at no charge, which website shall be searchable by zip code or state, or both. The website viewing shall include, as applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(c) Maintains records of the sale, purchase, consignment, or trade of the personal property or other valuable thing for at least 2 years, which records shall contain a description, including a photograph, if available, and, if applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(d) Provide the local law enforcement agency with any name under which it conducts business on the website and access to the business premises at any time during normal business hours for purposes of inspection.

(e) Within 24 hours after a request from a local law enforcement agency, provide an electronic copy of the seller's or consignor's name, address, telephone number, driver license number and issuing state, the buyer's name and address if applicable, and a description of the personal property or other valuable thing as described in subdivision (c). The provision of information shall be in a format acceptable to the local law enforcement agency but shall at least be in a legible format and in the English language.

(f) Provide that payment for the personal property or other valuable thing is executed by means of check or other electronic payment system, so long as the payment is not made in cash. No payment shall be provided to the seller until the item is sold.

(g) Immediately remove the personal property or other valuable thing from the website if the local law enforcement agency determines that the personal property or other valuable thing is stolen.

### **Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 5955.
- (b) House Bill No. 5957.
- (c) House Bill No. 5958.

This act is ordered to take immediate effect.

Approved July 18, 2006.

Filed with Secretary of State July 20, 2006.

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**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 5955 was filed with the Secretary of State July 20, 2006, and became 2006 PA 292, Imd. Eff. July 20, 2006.

House Bill No. 5957 was filed with the Secretary of State July 20, 2006, and became 2006 PA 294, Imd. Eff. July 20, 2006.

House Bill No. 5958 was filed with the Secretary of State July 20, 2006, and became 2006 PA 295, Imd. Eff. July 20, 2006.

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**[No. 294]**

**(HB 5957)**

AN ACT to amend 1917 PA 350, entitled "An act to regulate and license second hand dealers and junk dealers; and to prescribe penalties for the violation of the provisions of this act," by amending sections 1 and 3 (MCL 445.401 and 445.403).

*The People of the State of Michigan enact:*

**445.401 Second hand or junk dealer; license required in certain cities and villages; internet drop-off store exempt from licensure.**

Sec. 1. (1) A person, corporation, copartnership, or firm shall not carry on the business of dealer in second hand goods or junk dealer in any of the cities or villages of this state having a population of 1,000 located in counties of 25,000 or over without having first obtained, from the mayor of the city or the president of the village where such business is to be carried on, a license under this act authorizing that person, corporation, copartnership, or firm to carry on that business.

(2) This subsection does not require an internet drop-off store complying with subsection (3), or a person engaged in the sale, purchase, consignment, or trade of personal property or other valuable thing for himself or herself, to obtain a license under this act.

(3) An internet drop-off store in compliance with the following conditions is exempt from licensure as a second hand dealer or junk dealer under this act:

(a) Has a fixed place of business within this state except that he or she exclusively transacts all purchases or sales by means of the internet and the purchases and sales are not physically transacted on the premises of that fixed place of business.

(b) Has the personal property or other valuable thing available on a website for viewing by photograph, if available, by the general public at no charge, which website shall be searchable by zip code or state, or both. The website viewing shall include, as applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(c) Maintains records of the sale, purchase, consignment, or trade of the personal property or other valuable thing for at least 2 years, which records shall contain a description, including a photograph, if available, and, if applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(d) Provide the local law enforcement agency with any name under which it conducts business on the website and access to the business premises at any time during normal business hours for purposes of inspection.

(e) Within 24 hours after a request from a local law enforcement agency, provide an electronic copy of the seller's or consignor's name, address, telephone number, driver license number and issuing state, the buyer's name and address if applicable, and a description of the personal property or other valuable thing as described in subdivision (c). The provision of information shall be in a format acceptable to the local law enforcement agency but shall at least be in a legible format and in the English language.

(f) Provide that payment for the personal property or other valuable thing is executed by means of check or other electronic payment system, so long as the payment is not made in cash. No payment shall be provided to the seller until the item is sold.

(g) Immediately remove the personal property or other valuable thing from the website if the local law enforcement agency determines that the personal property or other valuable thing is stolen.

**445.403 Definitions.**

Sec. 3. As used in this act:

(a) "Automotive recycler" means a person who engages in business primarily for the purpose of selling retail salvage vehicle parts and secondarily for the purpose of selling retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal

or a person employed as a salvage vehicle agent as that term is defined in section 56c of the Michigan vehicle code, 1949 PA 300, MCL 257.56c.

(b) “Internet drop-off store” means a person, corporation, or firm that contracts with other persons, corporations, or firms to offer its personal property or other valuable thing for sale, purchase, consignment, or trade through means of an internet website and meets the conditions described in section 1(3).

(c) “Local law enforcement agency” means the police agency of the city, village, or township, or if none, the county sheriff of the county in which the internet drop-off store conducts business.

(d) “Scrap processor” means a person, utilizing machinery and equipment and operating from a fixed location, whose principal business is the processing and manufacturing of iron, steel, nonferrous metals, paper, plastic, or glass, into prepared grades of products suitable for consumption by recycling mills and foundries.

(e) “Second hand dealer” or “junk dealer” means any person, corporation, or member or members of a copartnership or firm whose principal business is that of purchasing, selling, exchanging, storing, or receiving second hand articles of any kind, cast iron, old iron, old steel, tool steel, aluminum, copper, brass, lead pipe or tools, lighting and plumbing fixtures. Second hand dealer or junk dealer does not include a scrap processor or an automotive recycler.

### **Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 5955.
- (b) House Bill No. 5956.
- (c) House Bill No. 5958.

This act is ordered to take immediate effect.

Approved July 18, 2006.

Filed with Secretary of State July 20, 2006.

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**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 5955 was filed with the Secretary of State July 20, 2006, and became 2006 PA 292, Imd. Eff. July 20, 2006.

House Bill No. 5956 was filed with the Secretary of State July 20, 2006, and became 2006 PA 293, Imd. Eff. July 20, 2006.

House Bill No. 5958 was filed with the Secretary of State July 20, 2006, and became 2006 PA 295, Imd. Eff. July 20, 2006.

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**[No. 295]**

**(HB 5958)**

AN ACT to amend 1981 PA 95, entitled “An act to regulate the business of buying and receiving gold, silver, platinum, gems, jewelry, and other precious items; to provide powers to certain state and local officers and agencies with respect to such regulation; to provide for the registration of precious metal and gem dealers; to provide for civil damages; and to prescribe penalties,” by amending sections 2 and 3 (MCL 445.482 and 445.483), section 2 as amended by 1990 PA 34.

*The People of the State of Michigan enact:*

#### **445.482 Definitions.**

Sec. 2. As used in this act:

(a) “Agent or employee” means a person who, for compensation or valuable consideration, is employed either directly or indirectly by a dealer.

(b) “Dealer” means any person, corporation, partnership, or association, which, in whole or in part, engages in the ordinary course of repeated and recurrent transactions of buying or receiving precious items from the public within this state.

(c) “Gold” means elemental gold having an atomic weight of 196.967 and the chemical element symbol of Au, whether found by itself or in combination with its alloys or any other metal.

(d) “Internet drop-off store” means a person, corporation, or firm that contracts with other persons, corporations, or firms to offer its precious items for sale, purchase, consignment, or trade through means of an internet website and meets the conditions described in section 3(3).

(e) “Jewelry” means an ornamental item made of a material that includes a precious gem.

(f) “Local governmental unit” means a city, village, township, or county.

(g) “Local police agency” means the police agency of the city, village, or township, or if none, the county sheriff of the county, in which the dealer or internet drop-off store conducts business.

(h) “Platinum” means elemental platinum having an atomic weight of 195.09 and the chemical element symbol of Pt, whether found by itself or in combination with its alloys or any other metal.

(i) “Precious gem” means a diamond, alexandrite, ruby, sapphire, opal, amethyst, emerald, aquamarine, morganite, garnet, jadeite, topaz, tourmaline, turquoise, or pearl.

(j) “Precious item” means jewelry, a precious gem, or an item containing gold, silver, or platinum. Precious item does not include the following:

(i) Coins, commemorative medals, and tokens struck by, or in behalf of, a government or private mint.

(ii) Bullion bars and discs of the type traded by banks and commodity exchanges.

(iii) Items at the time they are purchased directly from a dealer registered under this act, a manufacturer, or a wholesaler who purchased them directly from a manufacturer.

(iv) Industrial machinery or equipment.

(v) An item being returned to or exchanged at the dealer where the item was purchased and that is accompanied by a valid sales receipt.

(vi) An item which is received for alteration, redesign, or repair in a manner that does not substantially change its use and returned directly to the customer.

(vii) An item which does not have a jeweler’s identifying mark or a serial mark and which the dealer purchases for less than \$5.00.

(viii) Scrap metal which contains incidental traces of gold, silver, or platinum that are recoverable as a by-product.

(ix) Jewelry which a customer trades for other jewelry having a greater value, and which difference in value is paid by the customer.

(k) “Silver” means elemental silver having an atomic weight of 107.869 and the chemical element symbol of Ag, whether found by itself or in combination with its alloys or any other metal.

**445.483 Dealer; certificate of registration required; internet drop-off store exempt from registration; application; fee; disclosures; dealer, agent, or employee convicted of misdemeanor or felony; compliance with local ordinances; issuance and posting of certificate; notification of change in name or address.**

Sec. 3. (1) A dealer shall not conduct business in a local governmental unit in this state unless the dealer has obtained a valid certificate of registration from that local governmental unit or local police agency.

(2) This section does not require an internet drop-off store complying with subsection (3), or a person engaged in the sale, purchase, consignment, or trade of precious items for himself or herself, to obtain a registration under this act.

(3) An internet drop-off store in compliance with the following conditions is exempt from registration as a dealer under this act:

(a) Has a fixed place of business within this state except that he or she exclusively transacts all purchases or sales by means of the internet and the purchases and sales are not physically transacted on the premises of that fixed place of business.

(b) Has the personal property or other valuable thing available on a website for viewing by photograph, if available, by the general public at no charge, which website shall be searchable by zip code or state, or both. The website viewing shall include, as applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(c) Maintains records of the sale, purchase, consignment, or trade of the personal property or other valuable thing for at least 2 years, which records shall contain a description, including a photograph, if available, and, if applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(d) Provide the local police agency with any name under which it conducts business on the website and access to the business premises at any time during normal business hours for purposes of inspection.

(e) Within 24 hours after a request from a local police agency, provide an electronic copy of the seller's or consignor's name, address, telephone number, driver license number and issuing state, the buyer's name and address if applicable, and a description of the personal property or other valuable thing as described in subdivision (c). The provision of information shall be in a format acceptable to the local police agency but shall at least be in a legible format and in the English language.

(f) Provide that payment for the personal property or other valuable thing is executed by means of check or other electronic payment system, so long as the payment is not made in cash. No payment shall be provided to the seller until the item is sold.

(g) Immediately remove the personal property or other valuable thing from the website if the local police agency determines that the personal property or other valuable thing is stolen.

(4) A dealer shall apply to the local police agency for a certificate of registration, and pay a fee not to exceed \$50.00 to cover the reasonable cost of processing and issuing the certificate of registration, by disclosing the following information:

(a) The name, address, and thumbprint of the applicant.

(b) The name and address under which the applicant does business.

(c) The name, address, and thumbprint of all agents or employees of the dealer. Within 24 hours after hiring a new employee, the dealer shall forward to the local police agency the name, address, and thumbprint of the new employee.

(5) A dealer or an agent or employee of a dealer who is convicted of a misdemeanor under this act or under section 535 of the Michigan penal code, 1931 PA 328, MCL 750.535, shall not be permitted to operate as a dealer within this state for a period of 1 year after conviction.

(6) A dealer or an agent or employee of a dealer who is convicted of a felony under this act or under section 535 of the Michigan penal code, 1931 PA 328, MCL 750.535, shall not be permitted to operate as a dealer within this state for a period of 5 years after the conviction.

(7) This act shall not be construed to excuse a dealer from complying with the local zoning ordinance or any local ordinance regulating commercial activities. However, a local government may not pass an ordinance, or enforce an existing ordinance, that provides additional standards which must be met before the issuance of a certificate of registration.

(8) Upon receipt of the application described in subsection (4), the local police agency shall issue a certificate of registration in accordance with this section.

(9) Upon receipt of the certificate of registration from the local police agency, the dealer shall post it in a conspicuous place in the dealer's place of business.

(10) Not less than 10 days before a dealer changes the name or address under which the dealer does business, the dealer shall notify the local police agency of the change.

#### **Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 5955.
- (b) House Bill No. 5956.
- (c) House Bill No. 5957.

This act is ordered to take immediate effect.

Approved July 18, 2006.

Filed with Secretary of State July 20, 2006.

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**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:  
House Bill No. 5955 was filed with the Secretary of State July 20, 2006, and became 2006 PA 292, Imd. Eff. July 20, 2006.  
House Bill No. 5956 was filed with the Secretary of State July 20, 2006, and became 2006 PA 293, Imd. Eff. July 20, 2006.  
House Bill No. 5957 was filed with the Secretary of State July 20, 2006, and became 2006 PA 294, Imd. Eff. July 20, 2006.

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**[No. 296]**

**(SB 541)**

AN ACT to regulate the transfer of structured settlement rights; to place conditions on the transfer of structured settlement rights; to establish a procedure for approval of transfer of structured settlement rights; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

### **691.1301 Short title.**

Sec. 1. This act shall be known and may be cited as the “revised structured settlement protection act”.

### **691.1302 Definitions.**

Sec. 2. As used in this act:

(a) “Annuity issuer” means an insurer that has issued a contract to fund periodic payments under a structured settlement.

(b) “Dependent” means a payee’s spouse, minor child, or any other person for whom the payee is legally obligated to provide support, including alimony.

(c) “Discounted present value” means the present value of future payments determined by discounting the payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the internal revenue service.

(d) “Gross advance amount” means the sum payable to the payee or for the payee’s account as consideration for a transfer of structured settlement payment rights before reduction in that sum for transfer expenses or other deductions.

(e) “Imminent financial hardship” means the inability of the payee, because of a change in the payee’s circumstances after the execution of the initial structured settlement agreement, to purchase or pay for 1 or more of the following without the transfer:

(i) Medical care or a medical device for the payee or the payee’s dependents.

(ii) Living quarters for the payee.

(iii) A motor vehicle necessary for the payee’s transportation if the payee has no other suitable transportation options.

(iv) Education or job training expenses.

(v) Debts of the payee resulting from child support, alimony, a tax lien, funeral expenses, or a judgment.

(f) “Independent professional advice” means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser.

(g) “Interested party” means, with respect to a structured settlement, the payee, a beneficiary irrevocably designated under an annuity contract to receive payments following the payee’s death, an annuity issuer, a structured settlement obligor, or any other person that has continuing rights or obligations under the structured settlement.

(h) “Net advance amount” means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under section 3(e).

(i) “Payee” means an individual who receives tax free payments under a structured settlement and who proposes to make a transfer of payment rights under the structured settlement.

(j) “Periodic payments” means both recurring payments and scheduled future lump sum payments.

(k) “Qualified assignment agreement” means an agreement providing for a qualified assignment as defined in section 130 of the internal revenue code, 26 USC 130.

(l) “Settled claim” means the original tort claim resolved by a structured settlement.

(m) “Structured settlement” means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment to resolve a tort claim. Structured settlement does not include an arrangement for periodic payments to settle a worker’s compensation claim.

(n) “Structured settlement agreement” means an agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(o) “Structured settlement obligor” means, with respect to a structured settlement, a person that has a continuing obligation to make periodic payments to a payee under the structured settlement agreement or a qualified assignment agreement.

(p) “Structured settlement payment rights” means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, if 1 or more of the following conditions exist:

(i) The payee is domiciled in, or the domicile or principal place of business of the structured settlement obligor or the annuity issuer is located in, this state.

(ii) The structured settlement agreement was approved by a court in this state.

(iii) The structured settlement agreement is expressly governed by the laws of this state.

(q) “Terms of the structured settlement” means, with respect to a structured settlement, the terms of the structured settlement agreement, an annuity contract, a qualified assignment agreement, or an order or other approval of a court that authorized or approved the structured settlement.

(r) “Transfer” means a sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights a payee makes for consideration; except that “transfer” does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, unless action has been taken to redirect the structured settlement payments to the insured depository institution or to an agent or successor in interest of the depository institution, or action has been taken to otherwise enforce the blanket security interest against the structured settlement payment rights.

(s) “Transfer agreement” means an agreement providing for a transfer of structured settlement payment rights.

(t) “Transfer expenses” means all expenses of a transfer that the transfer agreement requires the payee to pay or have deducted from the gross advance amount, including, but not limited to, court filing fees, attorney fees, escrow fees, lien recordation fees, judgment and lien search fees, finders’ fees, commissions, and other payments to a broker or other intermediary. Transfer expenses do not include preexisting obligations of the payee that are payable for the payee’s account from the proceeds of a transfer.

(u) “Transferee” means a person acquiring or proposing to acquire structured settlement payment rights through a transfer.

### **691.1303 Separate disclosure statement to be provided by transferee; type; contents.**

Sec. 3. Not less than 3 days before the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement in bold type no smaller than 14 points setting forth all of the following:

(a) The amounts and due dates of the structured settlement payments to be transferred.



(b) The aggregate amount of the payments.

(c) The discounted present value of the payments to be transferred, which shall be identified as the calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities, and the amount of the applicable federal rate used in calculating the discounted present value.

(d) The gross advance amount.

(e) An itemized listing of all applicable transfer expenses, other than attorney fees and related disbursements payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of the fees and disbursements.

(f) The net advance amount.

(g) The amount of penalties or liquidated damages payable by the payee if the payee breaches the transfer agreement.

(h) A statement that the payee has the right to cancel the transfer agreement without penalty or further obligation not later than the third business day after the date that the payee signs the agreement.

#### **691.1304 Transfer of structured settlement payment rights; final court order; approval; basis; findings.**

Sec. 4. A direct or indirect transfer of structured settlement payment rights is not effective and a structured settlement obligor or annuity issuer is not required to make a payment directly or indirectly to a transferee of structured settlement payment rights unless the transfer has been approved in a final court order and the order is based on express findings of all of the following:

(a) The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents.

(b) The transferee has advised the payee, in writing, to seek independent professional advice regarding the transfer, and the payee has either received independent professional advice or knowingly waived in writing the opportunity to seek advice.

(c) The transfer does not contravene an applicable statute or order of the court or other government authority.

(d) The discount rate or rates used in determining the discounted present value of the structured settlement payments to be transferred do not exceed 25% per year.

(e) If the transfer is inconsistent with a restriction against assignment in the structured settlement agreement and if the structured settlement obligor objects to the transfer based on the restriction against assignment before the hearing on the application for approval of the transfer, all of the following:

(i) The payee will suffer imminent financial hardship if the transfer is not approved.

(ii) The transfer will not render the payee unable to pay current or future normal living expenses.

(iii) The transfer order will restrict payment of the gross advance amount to direct payment to the provider of the goods or services that are the subject of the imminent financial hardship. If the total cost of the goods or services cannot be readily determined at the time of or within a reasonable time after the transfer, the court may exercise reasonable discretion in ordering such direct payments.

**691.1305 Transfer of structured settlement payment rights; effects.**

Sec. 5. A transfer of structured settlement payment rights under this act has all of the following effects:

(a) The structured settlement obligor and the annuity issuer are discharged and released from all liability for the transferred payments as to any person except the transferee.

(b) The transferee is liable to the structured settlement obligor and the annuity issuer for both of the following:

(i) If the transfer contravenes the terms of the structured settlement, the taxes incurred by the structured settlement obligor and the annuity issuer as a consequence of the transfer.

(ii) Other liabilities or costs, including reasonable costs and attorney fees, arising from the structured settlement obligor's and the annuity issuer's compliance with the order of the court or from the transferee's failure to comply with this act.

(c) An annuity issuer or a structured settlement obligor is not required to divide a periodic payment between the payee and a transferee or assignee or between 2 or more transferees or assignees.

(d) A payee may make a further transfer of structured settlement payment rights only after complying with all of the requirements of this act.

**691.1306 Transfer of structured settlement payment rights; application for approval; court jurisdiction; notice of proposed transfer.**

Sec. 6. (1) The transferee may apply for approval of a transfer of structured settlement payment rights with the court in the county in which the payee resides, in the county in which the structured settlement obligor or the annuity issuer maintains its principal place of business, or with the court that approved the structured settlement agreement.

(2) Not less than 20 days before the scheduled hearing on an application for approval of a transfer of structured settlement payment rights under section 4, the transferee shall file with the court and serve on all interested parties a notice of the proposed transfer and the application for its authorization, and shall include with the notice all of the following:

(a) A copy of the transferee's application.

(b) A copy of the transfer agreement.

(c) A copy of the disclosure statement required under section 3.

(d) A listing of each of the payee's dependents and each dependent's age.

(e) Notice that any interested party is entitled to support, oppose, or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or by participating in the hearing.

(f) Notice of the time and place of the hearing and of the manner in which and the time by which written responses to the application must be filed to be considered by the court. The time for filing written responses shall be not less than 15 days after service of the transferee's notice.

**691.1307 Waiver prohibited; scope and effect of act; failure to comply with act.**

Sec. 7. (1) A payee shall not waive a provision of this act.

(2) A transfer agreement entered into on or after the effective date of this act by a payee who resides in this state shall provide that disputes under the transfer agreement, including a claim that the payee has breached the agreement, shall be determined in and

under the laws of this state. A transfer agreement shall not authorize the transferee or any other person to confess judgment or consent to entry of judgment against the payee.

(3) A transfer of structured settlement payment rights that are life-contingent is not effective unless, before the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for both of the following:

(a) Periodically confirming the payee's survival.

(b) Giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

(4) A payee who proposes to make a transfer of structured settlement payment rights shall not incur a penalty, forfeit an application fee or other payment, or otherwise incur liability to the proposed transferee or assignee based on the failure of the transfer to satisfy the conditions of this act.

(5) This act does not authorize a transfer of structured settlement payment rights in contravention of law or validate or invalidate a transfer under a transfer agreement entered into before the effective date of this act.

(6) The transferee has sole responsibility for complying with the requirements in section 3 and fulfilling the conditions in section 4 in a transfer of structured settlement payment rights. A structured settlement obligor or annuity issuer shall not bear any responsibility or liability arising from a transferee's failure to comply with those requirements or to fulfill those conditions.

### **691.1308 Applicability of act.**

Sec. 8. This act applies to a transfer of structured settlement payment rights under any transfer agreement entered into on or after the thirtieth day after the effective date of this act.

### **691.1309 Repeal of MCL 691.1191 to 691.1197.**

Sec. 9. The structured settlement protection act, 2000 PA 330, MCL 691.1191 to 691.1197, is repealed effective 30 days after the effective date of this act.

### **691.1310 Effective date.**

Sec. 10. This act takes effect September 1, 2006.

This act is ordered to take immediate effect.

Approved July 18, 2006.

Filed with Secretary of State July 20, 2006.

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**[No. 297]**

**(HB 4807)**

AN ACT to amend 1956 PA 62, entitled "An act to authorize the director of the department of state police to promulgate a uniform traffic code; to authorize a city, township, or village to adopt the uniform traffic code by reference without publication in full; and to prescribe criminal penalties and civil sanctions for violation of the code," by amending section 1 (MCL 257.951), as amended by 1998 PA 69.

*The People of the State of Michigan enact:*

**257.951 Uniform traffic code; promulgation; adoption by reference; parking lot; entry upon private road; violation as misdemeanor or civil infraction; civil sanctions; processing of civil infraction; designating parking space for persons with disabilities; provisions relating to driving under influence or with impaired ability; “vehicle code” defined.**

Sec. 1. (1) A city, township, or village may adopt by reference a code or ordinance for the regulation of traffic within cities, townships, and villages that has been promulgated by the director of the department of state police. The director of the department of state police may promulgate a uniform traffic code in compliance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) A city, township, or village, with the consent of, or at the request of, a person who is in charge of a parking lot, whether or not that parking lot is open to the general public, may contract with that person for the city, township, or village to enforce provisions of the uniform traffic code or ordinance adopted under this section in that parking lot. A peace officer may enter upon a private road that is accessible to the general public to enforce provisions of an ordinance adopted under this section if signs meeting the requirements of the Michigan manual of uniform traffic control devices are posted on the private road. The owner or person in charge of the private road is responsible for the posting of signs under this subsection. Nothing in this subsection shall be considered to affect a contract entered into between a city, township, or village and the person in charge of a private road before the effective date of the amendatory act that added this sentence. As used in this subsection, “person” means an individual, corporation, association, partnership, or other legal entity.

(3) A uniform traffic code promulgated by the director of the department of state police under this section shall specify whether a person who violates a particular provision of the code is guilty of a misdemeanor or is responsible for a civil infraction. The director may establish civil sanctions for civil infractions, except that a civil sanction in excess of that prescribed in the vehicle code is in conflict with that act and is void to the extent of the conflict. The uniform traffic code shall not impose a criminal penalty for an act or omission that is a civil infraction under the vehicle code.

(4) Violation of a provision designated a civil infraction in the uniform traffic code shall be processed in the same manner as a civil infraction under the vehicle code.

(5) Notwithstanding the requirements of the uniform traffic code, a sign designating a parking space for persons with disabilities shall be 12 inches by 18 inches or larger and shall be either blue or white and at a minimum contain the international handicapped symbol in contrasting colors of either blue or white in the center of the sign.

(6) The provisions of the uniform traffic code promulgated pursuant to this act that relate to driving while under the influence of an alcoholic beverage or driving with impaired ability shall be identical to the provisions of sections 625 to 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 to 257.625m.

(7) For purposes of this section, “vehicle code” means the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923

This act is ordered to take immediate effect.

Approved July 18, 2006.

Filed with Secretary of State July 20, 2006.

**[No. 298]****(HB 6084)**

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 248f, 302, 302a, 303, 306, 307, 307a, 312e, 312f, 314, 319b, 319f, 319g, 324, 732, 741, 743, 746, 801c, 811k, and 907 (MCL 257.248f, 257.302, 257.302a, 257.303, 257.306, 257.307, 257.307a, 257.312e, 257.312f, 257.314, 257.319b, 257.319f, 257.319g, 257.324, 257.732, 257.741, 257.743, 257.746, 257.801c, 257.811k, and 257.907), section 248f as added by 1993 PA 300, section 302 as amended by 1991 PA 100, section 302a as added by 1990 PA 181, sections 303 and 307 as amended by 2005 PA 142, sections 306, 312f, and 314 as amended by 2004 PA 362, section 307a as added and section 743 as amended by 1988 PA 346, section 312e as amended by 2006 PA 212, sections 319b, 319g, and 732 as amended by 2004 PA 495, section 319f as added by 1996 PA 404, section 324 as amended by 2001 PA 159, section 746 as amended by 1980 PA 426, section 801c as amended by 1980 PA 281, section 811k as added by 2000 PA 73, and section 907 as amended by 2005 PA 1, and by adding section 303a.

*The People of the State of Michigan enact:*

**257.248f Vehicle dealer or salvage vehicle agent license; criminal history check; fingerprints; disclosure of information; violation of subsection (7) as misdemeanor; “criminal history record information” defined.**

Sec. 248f. (1) The secretary of state shall not license a person as a vehicle dealer or salvage vehicle agent before requesting a criminal history check of the person and receiving a criminal history report of the person from both the department of state police and federal bureau of investigation.

(2) Each criminal history check required under this section shall be requested, and a criminal history report shall be obtained, from both the department of state police and the federal bureau of investigation.

(3) Each person required to be named on an application shall submit his or her fingerprints for a criminal history check to the department of state police in a format as prescribed by the department of state police. The fees required by the department of state police or the federal bureau of investigation, as applicable, to conduct the criminal history check shall accompany a request for a criminal history check.

(4) The department of state police shall conduct a criminal history check not more than 45 days after receiving a proper request and the required fee for a criminal history check under this section. After conducting the criminal history check and within the same 45-day period, the department of state police shall provide the secretary of state with a report of the criminal history check. The report shall contain public criminal history record information concerning the person who is the subject of the request that is maintained by the department of state police.

(5) If a criminal arrest fingerprint card is subsequently submitted to the department of state police and matches against a fingerprint that was submitted under this section and stored in its automated fingerprint identification system (AFIS) database, the department of state police shall notify the department.

(6) Except as otherwise provided in this act, the secretary of state shall not approve an original vehicle dealer or salvage vehicle agent license before receiving and reviewing the applicable criminal history reports from the department of state police and the federal bureau of investigation.

(7) The secretary of state shall use criminal history record information received under this section to evaluate an applicant's qualifications to receive a vehicle dealer or salvage vehicle agent license under this act. The secretary of state may only discuss a criminal history report or its contents with the following people:

(a) Staff of the secretary of state who are involved in determining whether an applicant's vehicle dealer license or salvage vehicle agent license should be denied, suspended, or revoked.

(b) Staff of the department of state police.

(c) A person who was involved in the prosecution or defense of a criminal matter noted in a criminal history report.

(d) The applicant or his or her attorney.

(8) A person who violates subsection (7) is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00.

(9) As used in this section, "criminal history record information" means that term as defined in section 1a of 1925 PA 289, MCL 28.241a.

(10) Except for subsection (5), this section does not apply to a person whose criminal history has previously been investigated by the secretary of state and who is applying for the renewal of a vehicle dealer license or salvage vehicle agent license.

### **257.302 Operators' and chauffeurs' licenses; persons exempt.**

Sec. 302. The following persons are exempt from obtaining a license under this chapter:

(a) A person serving in the armed forces of the United States if furnished with a driver's permit and operating an official motor vehicle in that service or a person who is a military driver and operates a commercial motor vehicle for a military purpose. This exemption applies to active duty military personnel, members of the military reserves, active duty United States coast guard personnel, and members of the national guard while on active duty, including, but not limited to, personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians who are civilians required to wear military uniforms. This exemption does not apply to any of the following:

(i) United States reserve technicians.

(ii) Except as otherwise provided in this subdivision, a person who is a civilian and in the employ of the armed forces of the United States.

(b) A person while driving or operating a road roller, a snow motor, road machinery, or a farm tractor or implement of husbandry temporarily drawn, moved, or propelled on a highway.

(c) A nonresident who is not less than 16 years of age and who has been licensed either as an operator or a chauffeur under a law requiring the licensing of operators or chauffeurs in his or her home state and who has in his or her immediate possession either a valid operator's or a valid chauffeur's license issued to him or her in his or her home state.

(d) A nonresident who is over the age of 17 years, whose home state does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than 90 days in any calendar year, if all of the following apply:

(i) The motor vehicle is registered in the home state or country of the nonresident.

(ii) The nonresident has in his or her immediate possession a registration card evidencing ownership and registration of the motor vehicle in his or her home state or country, or is able at any time or place required to prove lawful possession or the right to operate the motor vehicle and to establish his or her proper identity.

(e) A person who is a member of the armed forces of the United States on official leave, who on the date of his or her orders granting leave possessed an operator's or chauffeur's license, valid except for the expiration date of the license. This exemption applies only to the person's first leave of absence following the expiration of his or her license and exempts the person from the provisions of this act for a period not to exceed 30 days.

(f) A person who is a discharged member of the armed forces of the United States, who on the date of his or her discharge possesses an operator's or chauffeur's license, valid except for the expiration date, for a period not to exceed 30 days from date of discharge.

(g) A person who is a member of the armed forces of the United States, stationed in this state, who is a resident of another state and has a valid license issued by his or her state of residence.

(h) A person while operating a commercial motor vehicle in the course of a driving test administered by a certified examiner appointed by the secretary of state and while accompanied by the examiner.

(i) A person while operating a commercial motor vehicle who is not disqualified from operating a commercial motor vehicle and who holds a commercial driver license that is issued to him or her by another state or jurisdiction under 49 CFR part 383.

### **257.302a Reciprocal operating privileges.**

Sec. 302a. (1) Except as otherwise provided by this act, a nonresident operator of a motor vehicle who is the holder of a license to operate a motor vehicle in the country in which he or she resides is not required to obtain a license to operate a passenger vehicle within this state, if he or she does not receive compensation for such operation. This subsection does not apply unless all of the following conditions have been satisfied:

(a) The secretary of state determines that the standards of the other country for licensing operators correspond substantially to those of this state and that the other country extends the same privileges to persons licensed to operate vehicles by this state.

(b) The secretary of state and the other country have exchanged letters confirming the reciprocal extension of privileges to operate vehicles.

(2) The secretary of state shall publish on its public internet site a list of the countries for which reciprocal operating privileges have been extended and withdrawn. If any changes are made, a revised list shall be mailed to the courts, prosecuting attorneys, and law enforcement agencies of this state.

**257.303 Operator's or chauffeur's license; issuance; prohibitions; revocation; denial of license; "felony in which a motor vehicle was used" defined.**

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, but not limited to, 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.

(m) A person whose commercial driver license application is canceled under section 324(2).

(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.

**257.303a Suspension, revocation, denial, disqualification, or cancellation of license by another state.**

Sec. 303a. Except as otherwise provided in this act, the suspension, revocation, denial, disqualification, or cancellation of an operator's license, chauffeur's license, or commercial driver license by another state or the United States shall run concurrently with a suspension, revocation, denial, disqualification, or cancellation of an operator's license, chauffeur's license, or commercial driver license by this state that is imposed for the same offense.

**257.306 Temporary instruction permit; operation of motor vehicle without operator's license or permit; temporary driver education certificate; motorcycle temporary instruction permit; temporary instruction permit to drive vehicle requiring vehicle group designation or vehicle group indorsement.**

Sec. 306. (1) The secretary of state, upon receiving an application for a temporary instruction permit from a person who is 18 years of age or older, may issue that permit entitling the applicant, while carrying the permit, to drive a motor vehicle other than a motor vehicle requiring an indorsement under section 312a or a vehicle group designation under section 312e upon the highways for a period of 180 days when accompanied by a licensed adult operator or chauffeur who is actually occupying a seat beside the driver.

(2) The secretary of state may issue an original operator's license and designate level 1, 2, or 3 graduated licensing provisions to a person who is less than 18 years of age, has been licensed in another state or country, and has satisfied the applicable requirements of section 310e.

(3) A student enrolled in a driver education course as that term is defined in section 1 of the driver education and training schools act, 1974 PA 369, MCL 256.601, or a motorcycle safety course approved by the department of state may operate a motor vehicle without holding an operator's license or permit while under the direct supervision of the program instructor.

(4) A student enrolled in a driver education course as that term is defined in section 1 of the driver education and training schools act, 1974 PA 369, MCL 256.601, and who has successfully completed 10 hours of classroom instruction and the equivalent of 2 hours of behind-the-wheel training may be issued a temporary driver education certificate furnished by the department of state that authorizes a student to drive a motor vehicle, other than a motor vehicle requiring an indorsement pursuant to section 312a or a vehicle group designation pursuant to section 312e, when accompanied by a licensed parent or guardian, or when accompanied by a nonlicensed parent or guardian and a licensed adult for the purpose of receiving additional instruction until the end of the student's driver education course.

(5) The secretary of state, upon receiving proper application from a person 16 or 17 years of age who is enrolled in or has successfully completed an approved motorcycle safety course under section 811a, or a person who is 18 years of age or older and who holds a valid operator's or chauffeur's license, may issue a motorcycle temporary instruction permit entitling the applicant, while carrying the permit, to operate a motorcycle upon the public streets and highways for a period of 180 days, but only when under the constant visual supervision of a licensed motorcycle operator at least 18 years of age. The applicant shall not operate the motorcycle at night or with a passenger.

(6) Except as prohibited under federal law, the secretary of state, upon receiving proper application from a person who is 18 years of age or older, who holds a valid operator's or chauffeur's license other than a restricted license, and who has passed the knowledge test for an original vehicle group designation or indorsement, may issue a temporary instruction permit entitling the person, while carrying the permit, to drive a vehicle requiring a vehicle group designation or vehicle group indorsement under section 312e upon the streets

and highways for a period of 180 days, but only when accompanied by a licensed adult operator or chauffeur who is licensed with the appropriate vehicle group designation and indorsement for the vehicle group being driven and who is actually occupying a seat beside the driver, or behind the driver if the permittee is driving a bus or school bus. In addition, if a permittee is enrolled in a driver training program for drivers of motor vehicles requiring a vehicle group designation or vehicle group indorsement under section 312e, which program is conducted by a college, a university, a school licensed by the department under the driver education and training schools act, 1974 PA 369, MCL 256.601 to 256.612, or a local or intermediate school district, the permittee may drive a vehicle requiring a vehicle group designation or vehicle group indorsement on the streets and highways of this state for a period of 180 days when accompanied by an instructor licensed with the appropriate vehicle group designation and indorsement for the vehicle being driven who is either occupying the seat beside the driver or in direct visual and audio communication with the permittee. A person issued a temporary instruction permit under this section shall not operate a vehicle designed to carry 16 or more passengers that is transporting passengers except with an instructor licensed with the appropriate vehicle group designation and indorsement for the vehicle being driven or a driver skills test examiner.

**257.307 Application for operator’s or chauffeur’s license; manner; contents; image and signature; equipment; use of image and information; access by law enforcement agency; signature and certification; fee; refund; organ donor registration; driving record from another jurisdiction; application for original, renewal, or upgrade of vehicle group designation or indorsement; issuing renewal license by mail or other methods; information manual; disclosure or display of social security number; electronic access to organ, tissue, and eye donor registry.**

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 of the department of state police under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25, 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 28.736, 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, and 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 or section 314(5), 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.

### **257.307a Operator or chauffeur license containing vehicle group designation; contents.**

Sec. 307a. For an operator or chauffeur license that contains a vehicle group designation, the secretary of state shall issue a license that contains the information required under this act and all of the following information:

(a) The name and address of residence of the licensee.

(b) Date of birth.

(c) Height and sex.

(d) Information required by the United States department of transportation under 49 CFR 383.153.

(e) The vehicle group designation and any indorsement of a commercial motor vehicle the licensee is authorized to operate.

(f) The name of this state.

(g) The expiration date of the license.

### **257.312e Group commercial motor vehicle designation; tests; holder of unexpired operator's or chauffeur's license; qualifications and fees for vehicle group designation and indorsement; F vehicle indorsement; exceptions; former indorsements; requirement for certain indorsements to operate school bus; waiver of driving skills test; expiration; disposition of money collected under subsection (8); refund to county or municipality; compliance with MCL 257.303 and 257.319b; requirements for implementing and enforcing federal law.**

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

(a) A person, before operating a combination of vehicles with a gross combination weight rating of 26,001 pounds or more including a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds, shall procure a group A vehicle designation on his or



her operator's or chauffeur's license. Unless an indorsement or the removal of restrictions is required, a person licensed to operate a group A vehicle may operate a group B or C vehicle without taking another test.

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) A person, before operating a vehicle that is designed to transport 16 or more passengers including the driver but is not a school bus shall procure the appropriate vehicle group designation and a P vehicle indorsement under this act. An applicant for a P vehicle indorsement shall take the driving skills test in a vehicle designed to transport 16 or more passengers including the driver.

(f) A person who does not currently possess a P indorsement, before operating a school bus designed to transport 16 or more passengers, including the driver, shall procure the appropriate vehicle group designation, pass the knowledge tests for the P and S indorsements, and procure the P and S vehicle indorsements under this act. An applicant for an S vehicle indorsement shall take a driving skills test in a school bus designed to transport 16 or more passengers, including the driver, that represents the same type of vehicle that the applicant intends to operate as a school bus.

(g) A person who currently possesses a P indorsement, before operating a school bus designed to transport 16 or more passengers, including the driver, shall procure the appropriate vehicle group designation, pass the knowledge test for an S indorsement, and procure an S vehicle indorsement under this act. An applicant for an S vehicle indorsement shall take a driving skills test in a school bus designed to transport 16 or more passengers, including the driver, that represents the same type of vehicle that the applicant intends to operate as a school bus.

(6) Until September 30, 2005, the secretary of state may waive the driving skills test for an applicant for an S indorsement if the applicant certifies, and the secretary of state verifies, that during the 2-year period immediately prior to applying for the school bus indorsement the applicant met all of the following conditions:

(a) The applicant holds a valid driver license with a vehicle group designation and a P indorsement.

(b) The applicant has not had an operator's, chauffeur's, or commercial motor vehicle driver license suspended, revoked, denied, or canceled.

(c) The applicant has not been disqualified by the United States secretary of transportation from operating a commercial motor vehicle.

(d) The applicant has not been convicted of any disqualifying offense listed in 49 CFR 383.51(b) while operating a commercial motor vehicle.

(e) The applicant has not been convicted of any disqualifying offense listed in 49 CFR 383.51(b) while operating a noncommercial motor vehicle that would be a disqualifying offense under 49 CFR 383.51(b) if the applicant had committed the offense while operating a commercial motor vehicle.

(f) The applicant has not had more than 1 conviction for a serious traffic violation as defined in 49 CFR 383.51 while operating any type of motor vehicle.

(g) Except for parking violations, the applicant has not had any conviction for a violation of any state or local motor vehicle traffic control law involving a vehicle accident and has not been found at fault in a vehicle accident.

(h) The applicant has been regularly employed as a school bus driver for the past 2 years and has, for those 2 years, operated a school bus representing the type of school bus that the applicant intends to operate, and the applicant provides satisfactory evidence of that employment to the secretary of state.

(7) An applicant for an indorsement shall take the knowledge and driving skills tests described and required under 49 CFR part 383.

(8) The holder of an unexpired operator's or chauffeur's license may be issued a vehicle group designation and indorsement valid for the remainder of the license upon meeting the qualifications of section 312f and payment of the original vehicle group designation fee of \$25.00 and an indorsement fee of \$5.00 per indorsement, and a corrected license fee of \$18.00. A person required to procure an F vehicle indorsement under subsection (10) shall pay an indorsement fee of \$5.00.

(9) Except as otherwise provided in subsections (10) and (11), this section does not apply to a driver or operator of a vehicle under all of the following conditions:

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

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

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

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

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

(11) A person, before driving or operating a single vehicle truck having a gross vehicle weight rating of 26,001 pounds or more or a combination of vehicles having a gross vehicle weight rating of 26,001 pounds or more on the power unit that is used as described in subsection (9)(a) to (d) for carrying hazardous materials on which a placard is required under 49 CFR parts 100 to 199, shall successfully complete both a knowledge test and a driving skills test. Upon successful completion of the knowledge test and driving skills test, the person shall be issued the appropriate vehicle group designation and any vehicle indorsement necessary under this act.

(12) This section does not apply to a police officer operating an authorized emergency vehicle or to a firefighter operating an authorized emergency vehicle who has met the driver training standards published under the fire fighters training council act of 1966, 1966 PA 291, MCL 29.361 to 29.377.

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

(14) The money collected under subsection (8) for a vehicle group designation or indorsement shall be deposited in the state treasury to the credit of the general fund. The secretary of state shall refund out of the fees collected to each county or municipality acting as an examining officer or examining bureau \$3.00 for each applicant examined for a first designation or indorsement to an operator's or chauffeur's license and \$1.50 for each renewal designation or indorsement to an operator's or chauffeur's license, whose application is not denied, on the condition that the money refunded shall be paid to the county or local treasurer and is appropriated to the county, municipality, or officer or bureau receiving that money for the purpose of carrying out this act.

(15) Notwithstanding any other provision of this section, a person operating a vehicle described in subsections (9) and (10) is subject to the provisions of sections 303 and 319b.

(16) This state shall comply with the requirements of the American association of motor vehicle administrators' AAMVAnet, incorporated's "Commercial Driver License Information System (CDLIS) State Procedures Manual" that the secretary of state determines are required for implementing and enforcing federal law.

**257.312f Vehicle group designation or indorsement on operator's or chauffeur's license; hazardous material indorsement; age; tests; waiver; conditions prohibiting issuance of vehicle group designation; determining applicability of subsection (5); "farm related service industry" defined.**

Sec. 312f. (1) Except as otherwise provided in this section, a person shall be not less than 18 years of age before he or she is issued a vehicle group designation or indorsement, other than a motorcycle indorsement, or not less than 21 years of age before he or she is issued a hazardous material indorsement on an operator's or chauffeur's license and, as provided in this section, the person shall pass knowledge and driving skills tests that comply with minimum federal standards prescribed in 49 CFR part 383. A person who is 18 years of age or older operating a vehicle to be used for farming purposes only may obtain an A or B vehicle group designation or an F vehicle indorsement. Each written examination given an applicant for a vehicle group designation or indorsement shall include subjects designed to cover the type or general class of vehicle to be operated. A person shall pass an examination that includes a driving skills test designed to test competency of the applicant for an original vehicle group designation and passenger indorsement on an operator's or chauffeur's license to drive that type or general class of vehicle upon the highways of this state with safety to persons and property. The secretary of state shall waive the driving skills test for a person operating a vehicle that is used under the conditions described in section 312e(9)(a) to (d) unless the vehicle has a gross vehicle weight rating of 26,001 pounds or more on the power unit and is to be used to carry hazardous materials on which a placard is required under 49 CFR parts 100 to 199. The driving skills test may be waived if the applicant has a valid license with the appropriate vehicle group designation, passenger vehicle indorsement, or school bus indorsement in another state issued in compliance with 49 USC 31301 to 31317.

(2) Except for a person who has held an operator's or chauffeur's license for less than 1 year, the secretary of state shall waive the knowledge test and the driving skills test and issue a 1-year seasonal restricted vehicle group designation to an otherwise qualified applicant to operate a group B or a group C vehicle for a farm related service industry if all of the following conditions are met:

(a) The applicant meets the requirements of 49 CFR 383.77.

(b) The seasons for which the seasonal restricted vehicle group designation is issued are from April 2 to June 30 and from September 2 to November 30 only of a 12-month period or, at the option of the applicant, for not more than 180 days from the date of issuance in a 12-month period.

(c) The commercial motor vehicle for which the seasonal restricted vehicle group designation is issued shall be operated only if all the following conditions are met:

(i) The commercial motor vehicle is operated only on routes within 150 miles from the place of business to the farm or farms being served.

(ii) The commercial motor vehicle does not transport a quantity of hazardous materials on which a placard under 49 CFR parts 100 to 199 is required except for the following:

(A) Diesel motor fuel in quantities of 1,000 gallons or less.

(B) Liquid fertilizers in quantities of 3,000 gallons or less.

(C) Solid fertilizers that are not transported with any organic substance.

(iii) The commercial motor vehicle does not require the H, N, P, S, T, or X vehicle indorsement.

(3) A seasonal restricted vehicle group designation under this section shall be issued, suspended, revoked, canceled, denied, or renewed in accordance with this act.

(4) The secretary of state may enter into an agreement with another public or private corporation or agency to conduct a driving skills test required under this section, section 312e, or 49 CFR part 383. Before the secretary of state authorizes a person to administer a corporation's or agency's driver skills testing operations or authorizes an examiner to conduct a driving skills test, that person or examiner must complete both a state and federal bureau of investigation fingerprint based criminal history check through the department of state police.

(5) The secretary of state shall not issue a vehicle group designation or a vehicle indorsement to an applicant for an original vehicle group designation or vehicle indorsement under section 312e to whom 1 or more of the following apply:

(a) The applicant has had his or her license suspended or revoked for a reason other than as provided in section 321a, 515, or 801c in the 36 months immediately preceding application, except that a vehicle group designation may be issued if the suspension or revocation was due to a temporary medical condition or failure to appear at a reexamination as provided in section 320.

(b) The applicant was convicted of or incurred a bond forfeiture in relation to a 6-point violation as provided in section 320a in the 24 months immediately preceding application if the violation occurred while the applicant was operating a commercial motor vehicle, or a violation of section 625(3) or former section 625b, or a local ordinance substantially corresponding to section 625(3) or former section 625b in the 24 months immediately preceding application, if the applicant was operating any type of motor vehicle.

(c) The applicant is listed on the national driver register, the commercial driver license information system, or the driving records of the state in which the applicant was previously licensed as being disqualified from operating a commercial motor vehicle or as having a license or driving privilege suspended, revoked, canceled, or denied.

(d) The applicant is listed on the national driver register, the commercial driver license information system, or the driving records of the state in which the applicant was previously licensed as having had a license suspended, revoked, or canceled in the 36 months immediately preceding application if a suspension or revocation would have been imposed under this act had the applicant been licensed in this state in the original instance. This subdivision does not apply to a suspension or revocation that would have been imposed due to a temporary medical condition or pursuant to section 321a, 515, or 801c.

(e) The applicant is subject to a suspension or revocation under section 319b or would have been subject to a suspension or revocation under section 319b if the applicant had been issued a vehicle group designation or vehicle indorsement.

(f) The applicant has been disqualified from operating a commercial motor vehicle under 49 USC 31301 to 31317 or the applicant's license to operate a commercial motor vehicle has been suspended, revoked, denied, or canceled within 36 months immediately preceding the date of application.

(g) The United States secretary of transportation has disqualified the applicant from operating a commercial motor vehicle.

(6) The secretary of state shall not renew or upgrade a vehicle group designation if the United States secretary of transportation has disqualified the applicant from operating a commercial motor vehicle, or the applicant is listed on the national driver register or the commercial driver license information system as being disqualified from operating a commercial motor vehicle or as having a driver license or driving privilege suspended, revoked, canceled, or denied.

(7) The secretary of state shall only consider bond forfeitures under subsection (5)(b) for violations that occurred on or after January 1, 1990 when determining the applicability of subsection (5).

(8) If an applicant for an original vehicle group designation was previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record from that jurisdiction. If 1 or more of the conditions described in subsection (5) exist in that jurisdiction when the secretary of state receives the copy, the secretary of state shall cancel all vehicle group designations on the person's operator's or chauffeur's license.

(9) The secretary of state shall cancel all vehicle group designations on a person's operator's or chauffeur's license upon receiving notice from the United States secretary of transportation, the national driver register, the commercial driver license system, or another state or jurisdiction that 1 or more of the conditions described in subsection (5) existed at the time of the person's application in this state.

(10) The secretary of state shall cancel all vehicle group designations on the person's operator's or chauffeur's license upon receiving proper notice that the person no longer meets the federal driver qualification requirements under 49 CFR part 391 to operate a commercial motor vehicle in interstate commerce, or the person no longer meets the driver qualification requirements to operate a commercial motor vehicle in intrastate commerce under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25.

(11) Subsection (5)(a), (b), (d), and (f) do not apply to an applicant for an original vehicle group designation who at the time of application has a valid license to operate a commercial motor vehicle issued by any state in compliance with 49 USC 31301 to 31317.

(12) As used in this section, "farm related service industry" means custom harvesters, farm retail outlets and suppliers, agri-chemical business, or livestock feeders.

### **257.314 Operator's or chauffeur's license; duration; expiration; identification of licensee less than 21; renewal; extension.**

Sec. 314. (1) Except as otherwise provided in this section, operator's licenses and chauffeur's licenses expire on the birthday of the person to whom the license is issued in the fourth year following the date of the issuance of the license unless suspended or revoked before that date. A license shall not be issued for a period longer than 4 years. A person holding a license at any time 12 months before the expiration of his or her license may apply for a new license as provided for in this chapter. A knowledge test for an original group designation or indorsement may be taken at any time during this period and the results are valid for 12 months. A license renewed under this subsection shall be renewed for the time remaining on the license before its renewal combined with the 4-year renewal period.

(2) The first operator's license issued to a person who at the time of application is less than 20-1/2 years of age expires on the licensee's twenty-first birthday unless suspended or revoked.

(3) The first chauffeur's license issued to a person expires on the licensee's birthday in the fourth year following the date of issuance unless the license is suspended or revoked before that date. The chauffeur's license of a person who at the time of application is less than 20-1/2 years of age expires on the licensee's twenty-first birthday unless suspended or revoked. A subsequent chauffeur's license expires on the birthday of the person to whom the license is issued in the fourth year following the date of issuance of the license unless the license is suspended or revoked before that date.

(4) A person may apply for an extension of his or her driving privileges if he or she is out of state on the date that his or her operator's or chauffeur's license expires. The extension may extend the license for 180 days beyond the expiration date or not more than 2 weeks after the applicant returns to Michigan, whichever occurs first.

(5) Except for an operator's or chauffeur's license with a hazardous material indorsement, the secretary of state may issue a renewal operator's or chauffeur's license to a person who will be out of state for more than 180 days beyond the expiration date of his or her

operator's or chauffeur's license, if the secretary of state has a digital image of the person on file. The applicant for this renewal shall submit a statement evidencing a vision examination in accordance with the rules promulgated by the secretary of state under section 309 and any other statement required by this act or federal law. A person is not eligible for consecutive renewals of a license under this subsection.

(6) 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 renewal under this section.

**257.319b Suspension or revocation of vehicle group designations on operator's or chauffeur's license; notice of conviction, bond forfeiture, civil infraction determination, violation of law, or refusal to submit to chemical test; period of suspension or revocation; denial, cancellation, or revocation of hazardous material indorsement; notice of security risk; applicability of conditions; definitions.**

Sec. 319b. (1) The secretary of state shall immediately suspend or revoke, as applicable, all vehicle group designations on the operator's or chauffeur's license of a person upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or administrative tribunal has found the person responsible, for a violation described in this subsection of a law of this state, a local ordinance substantially corresponding to a law of this state while the person was operating a commercial motor vehicle, or a law of another state substantially corresponding to a law of this state, or notice that the person has refused to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, breath, or urine while the person was operating a commercial motor vehicle as required by a law or local ordinance of this or another state. The period of suspension or revocation is as follows:

(a) Suspension for 60 days if the person is convicted of or found responsible for 1 of the following while operating a commercial motor vehicle:

(i) Two serious traffic violations arising from separate incidents within 36 months.

(ii) A violation of section 667, 668, 669, or 669a.

(iii) A violation of motor carrier safety regulations 49 CFR 392.10 or 392.11, as adopted by section 1a of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11a.

(iv) A violation of section 57 of the pupil transportation act, 1990 PA 187, MCL 257.1857.

(v) A violation of motor carrier safety regulations 49 CFR 392.10 or 392.11, as adopted by section 31 of the motor bus transportation act, 1982 PA 432, MCL 474.131.

(vi) A violation of motor carrier safety regulations 49 CFR 392.10 or 392.11 while operating a commercial motor vehicle other than a vehicle covered under subparagraph (iii), (iv), or (v).

(b) Suspension for 120 days if the person is convicted of or found responsible for 1 of the following arising from separate incidents within 36 months while operating a commercial motor vehicle:

(i) Three serious traffic violations.

(ii) Any combination of 2 violations described in subdivision (a)(ii).

(c) Suspension for 1 year if the person is convicted of or found responsible for 1 of the following:

(i) A violation of section 625(1), (3), (4), (5), (6), (7), or (8), section 625m, or former section 625(1) or (2), or former section 625b, while operating a commercial or noncommercial motor vehicle.

(ii) Leaving the scene of an accident involving a commercial or noncommercial motor vehicle operated by the person.

(iii) Except for a felony described in 49 CFR 383.51(b)(9), a felony in which a commercial or noncommercial motor vehicle was used.

(iv) A refusal of a peace officer's request to submit to a chemical test of his or her blood, breath, or urine to determine the amount of alcohol or presence of a controlled substance or both in his or her blood, breath, or urine while he or she was operating a commercial or noncommercial motor vehicle as required by a law or local ordinance of this state or another state.

(v) Effective October 1, 2005, operating a commercial motor vehicle in violation of a suspension, revocation, denial, or cancellation that was imposed for previous violations committed while operating a commercial motor vehicle.

(vi) Effective October 1, 2005, causing a fatality through the negligent or criminal operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, motor vehicle homicide, and negligent homicide.

(vii) A 6-point violation as provided in section 320a while operating a commercial motor vehicle.

(viii) Any combination of 3 violations described in subdivision (a)(ii) arising from separate incidents within 36 months while operating a commercial motor vehicle.

(d) Suspension for 3 years if the person is convicted of or found responsible for an offense enumerated in subdivision (c)(i) to (vii) in which a commercial motor vehicle was used if the vehicle was carrying hazardous material required to have a placard under 49 CFR parts 100 to 199.

(e) Revocation for life, but with eligibility for reissue of a group vehicle designation after not less than 10 years and after approval by the secretary of state, if the person is convicted of or found responsible for 2 violations or a combination of any 2 violations arising from 2 or more separate incidents involving any of the following:

(i) Section 625(1), (3), (4), (5), (6), (7), or (8), section 625m, or former section 625(1) or (2), or former section 625b, while operating a commercial or noncommercial motor vehicle.

(ii) Leaving the scene of an accident involving a commercial or noncommercial motor vehicle operated by the licensee.

(iii) Except for a felony described in 49 CFR 383.51(b)(9), a felony in which a commercial or noncommercial motor vehicle was used.

(iv) A refusal of a request of a police officer to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood while he or she was operating a commercial or noncommercial motor vehicle in this state or another state.

(v) Effective October 1, 2005, operating a commercial motor vehicle in violation of a suspension, revocation, denial, or cancellation that was imposed for previous violations committed while operating a commercial motor vehicle.

(vi) Effective October 1, 2005, causing a fatality through the negligent or criminal operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, motor vehicle homicide, and negligent homicide.

(vii) Six-point violations as provided in section 320a while operating a commercial motor vehicle.



(f) Revocation for life if a person is convicted of or found responsible for any of the following:

(i) One violation of a felony in which a commercial motor vehicle was used and that involved the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute, or dispense a controlled substance.

(ii) A conviction of any offense described in subdivision (c) or (d) after having been approved for the reissuance of a vehicle group designation under subdivision (e).

(iii) A conviction of a violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(2) The secretary of state shall immediately deny, cancel, or revoke a hazardous material indorsement on the operator's or chauffeur's license of a person with a vehicle group designation upon receiving notice from a federal government agency that the person poses a security risk warranting denial, cancellation, or revocation under the uniting and strengthening America by providing appropriate tools required to intercept and obstruct terrorism (USA PATRIOT ACT) act of 2001, Public Law 107-56. The denial, cancellation, or revocation cannot be appealed under section 322 or 323 and remains in effect until the secretary of state receives a federal government notice that the person does not pose a security risk in the transportation of hazardous materials.

(3) The secretary of state shall immediately suspend all vehicle group designations on a person's operator's or chauffeur's license upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or administrative tribunal has found the person responsible, for a violation of section 319d(4) or 319f, a local ordinance substantially corresponding to section 319d(4) or 319f, or a law or local ordinance of another state, the United States, Canada, Mexico, or a local jurisdiction of either of these countries substantially corresponding to section 319d(4) or 319f, while operating a commercial motor vehicle. The period of suspension or revocation is as follows:

(a) Suspension for 90 days if the person is convicted of or found responsible for a violation of section 319d(4) or 319f while operating a commercial motor vehicle.

(b) Suspension for 180 days if the person is convicted of or found responsible for a violation of section 319d(4) or 319f while operating a commercial motor vehicle that is either carrying hazardous material required to have a placard under 49 CFR parts 100 to 199 or designed to carry 16 or more passengers, including the driver.

(c) Suspension for 1 year if the person is convicted of or found responsible for 2 violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle arising from 2 or more separate incidents during a 10-year period.

(d) Suspension for 3 years if the person is convicted of or found responsible for 3 or more violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle arising from 3 or more separate incidents during a 10-year period.

(e) Suspension for 3 years if the person is convicted of or found responsible for 2 or more violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle carrying hazardous material required to have a placard under 49 CFR parts 100 to 199, or designed to carry 16 or more passengers, including the driver, arising from 2 or more separate incidents during a 10-year period.

(4) The secretary of state shall suspend or revoke, as applicable, any privilege to operate a commercial motor vehicle as directed by the federal government or its designee.

(5) For the purpose of this section only, a bond forfeiture or a determination by a court of original jurisdiction or an authorized administrative tribunal that a person has violated the law is considered a conviction.

(6) The secretary of state shall suspend or revoke a vehicle group designation under subsection (1) or deny, cancel, or revoke a hazardous material indorsement under subsection (2) notwithstanding a suspension, restriction, revocation, or denial of an operator's or chauffeur's license or vehicle group designation under another section of this act or a court order issued under another section of this act or a local ordinance substantially corresponding to another section of this act.

(7) A conviction, bond forfeiture, or civil infraction determination, or notice that a court or administrative tribunal has found a person responsible for a violation described in this subsection while the person was operating a noncommercial motor vehicle counts against the person who holds a license to operate a commercial motor vehicle the same as if the person had been operating a commercial motor vehicle at the time of the violation. For the purpose of this subsection, a noncommercial motor vehicle does not include a recreational vehicle used off-road. This subsection applies to the following state law violations or a local ordinance substantially corresponding to any of those violations or a law of another state or out-of-state jurisdiction substantially corresponding to any of those violations:

(a) Operating a vehicle in violation of section 625.

(b) Refusing to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or the presence of a controlled substance or both in the person's blood, breath, or urine as required by a law or local ordinance of this or another state.

(c) Leaving the scene of an accident.

(d) Using a vehicle to commit a felony.

(8) When determining the applicability of conditions listed in this section, the secretary of state shall consider only violations that occurred after January 1, 1990.

(9) When determining the applicability of conditions listed in subsection (1)(a) or (b), the secretary of state shall count only from incident date to incident date.

(10) As used in this section:

(a) "Felony in which a commercial motor vehicle was used" means a felony during the commission of which the person convicted operated a commercial motor vehicle and while the person was operating the vehicle 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.

(b) "Serious traffic violation" means any of the following:

(i) A traffic violation that occurs in connection with an accident in which a person died.

(ii) Careless driving.

(iii) Excessive speeding as defined in regulations promulgated under 49 USC 31301 to 31317.

(iv) Improper lane use.

(v) Following too closely.

(vi) Effective October 1, 2005, driving a commercial motor vehicle without obtaining any vehicle group designation on the person's license.

(vii) Effective October 1, 2005, driving a commercial motor vehicle without either having an operator's or chauffeur's license in the person's possession or providing proof to the court, not later than the date by which the person must appear in court or pay a fine for the violation, that the person held a valid vehicle group designation and indorsement on the date that the citation was issued.

(viii) Effective October 1, 2005, driving a commercial motor vehicle while in possession of an operator's or chauffeur's license that has a vehicle group designation but does not have the appropriate vehicle group designation or indorsement required for the specific vehicle group being operated or the passengers or type of cargo being transported.

(ix) Any other serious traffic violation as defined in 49 CFR 383.5 or as prescribed under this act.

### **257.319f Operation of commercial motor vehicle in violation of out-of-state service order; prohibition; suspension; definitions.**

Sec. 319f. (1) A person shall not operate a commercial motor vehicle in this state in violation of an out-of-service order.

(2) Except as otherwise provided in this subsection, the secretary of state shall immediately suspend all vehicle group designations on the operator's or chauffeur's license of a person convicted of violating a driver out-of-service or vehicle out-of-service order as follows:

(a) If the violation occurred while the person was transporting nonhazardous material, the vehicle group designations shall be suspended as follows:

(i) Except as provided in subparagraphs (ii) and (iii), suspension for not less than 90 days or more than 1 year.

(ii) If the violation is the person's second violation within a 10-year period, suspension for not less than 1 year or more than 5 years.

(iii) If the violation is the person's third or subsequent violation within a 10-year period, suspension for not less than 3 years or more than 5 years.

(b) If the violation occurred while the person was transporting hazardous materials required to be placarded under 49 CFR parts 100 to 199 or while operating a vehicle designed to transport 16 or more passengers, including the driver, the vehicle group designations shall be suspended as follows:

(i) Except as otherwise provided in subparagraph (ii), suspension for not less than 180 days or more than 2 years.

(ii) For a second or subsequent violation within a 10-year period, suspension for not less than 3 years or more than 5 years.

(3) A person who violates an out-of-service order shall be ordered to pay a civil fine of not less than \$1,100.00 or more than \$2,750.00.

(4) As used in this section:

(a) "Out-of-service order" means a declaration by an authorized enforcement officer that a driver of a commercial motor vehicle as defined in subdivision (b), or a motor carrier operation, is out-of-service pursuant to 49 CFR 386.72, 392.5, 395.13, or 396.9, or the North American uniform out-of-service criteria, or a law or local ordinance of a state, the United States, Canada, Mexico, or a local jurisdiction thereof, substantially corresponding to 49 CFR 386.72, 392.5, 395.13, or 396.9, or the North American uniform out-of-service criteria.

(b) "Commercial motor vehicle" means that term as defined in section 7a and any motor vehicle having a GVWR or GCWR of 10,001 pounds or more.

### **257.319g Prohibitions; violations; civil infraction; "out-of-service order" defined.**

Sec. 319g. (1) An employer shall not knowingly allow, permit, authorize, or require a driver to operate a commercial motor vehicle in violation of any of the following:

(a) Section 667, 668, 669, 669a, or 670 or a federal, state, or local law or regulation pertaining to railroad-highway grade crossings.

(b) Motor carrier safety regulations 49 CFR 392.10 or 392.11, as adopted by section 1a of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11a.

(c) Section 57 of the pupil transportation act, 1990 PA 187, MCL 257.1857.

(d) Motor carrier safety regulations 49 CFR 392.10 or 392.11, as adopted by section 31 of the motor bus transportation act, 1982 PA 432, MCL 474.131.

(e) Motor carrier safety regulations 49 CFR 392.10 or 392.11 while operating a commercial motor vehicle other than a vehicle covered under subdivision (b), (c), or (d).

(f) Transportation security regulations 49 CFR parts 1570 and 1572 or motor carrier safety regulations 49 CFR parts 383 and 384 that regulate who may operate a commercial motor vehicle that is used to transport hazardous material.

(g) An out-of-service order.

(2) Except as otherwise provided in subdivisions (a) and (b), a person who violates this section is responsible for a civil infraction:

(a) An employer who violates subsection (1)(a) is responsible for a civil infraction and liable to pay a civil fine of not more than \$10,000.00.

(b) An employer who violates subsection (1)(g) is responsible for a civil infraction and liable to pay a civil fine of not less than \$2,750.00 or more than \$11,000.00.

(3) As used in this section, “out-of-service order” means a declaration by an authorized enforcement officer that a driver of a commercial motor vehicle or a motor carrier operation is out-of-service pursuant to 49 CFR 386.72, 392.5, 395.13, or 396.9, or the North American uniform out-of-service criteria, or a law or local ordinance of a state, the United States, Canada, Mexico, or a local jurisdiction thereof substantially corresponding to 49 CFR 386.72, 392.5, 395.13, or 396.9, or the North American uniform out-of-service criteria.

### **257.324 Prohibited conduct; void or canceled license.**

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

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

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

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

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

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

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

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

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

(2) A license for an operator or chauffeur issued under this chapter upon an application that is untrue, or that contains false statements as to any material matters, is absolutely void from the date of issuance. The operator or chauffeur who was issued the license is considered unlicensed and the license issued shall be returned upon request or order of the department. A person whose commercial driver license application is voided or canceled under this subsection shall not reapply for a commercial driver license for at least 60 days after an application is voided or canceled.

**257.732 Record of cases; forwarding abstract of record or report to secretary of state; settlement; abstracts forwarded; statements; non-compliance as misconduct in office; location and public inspection of abstracts; entering abstracts on master driving record; exceptions; informing courts of violations; entering order of reversal in book or index; modifications; abstract as part of written notice to appear; expunction prohibited.**

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 a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways and with those offenses pertaining to the operation of ORVs or snowmobiles for which points are assessed under section 320a(1)(c) or (i). Except as provided in subsection (16), the municipal judge or clerk of the court of record shall prepare and forward to the secretary of state an abstract of the court record as follows:

(a) Not more than 5 days after a conviction, forfeiture of bail, or entry of a civil infraction determination or default judgment upon a charge of or citation for violating or attempting to violate this act or a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways.

(b) Immediately for each case charging a violation of section 625(1), (3), (4), (5), (6), (7), or (8) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), (6), or (8) or section 625m in which the charge is dismissed or the defendant is acquitted.

(c) Immediately for each case charging a violation of section 82127(1) or (3), 81134, or 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127, 324.81134, and 324.81135, or a local ordinance substantially corresponding to those sections.

(2) 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 substantially 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. An abstract shall be certified by signature, stamp, or facsimile signature of the person required to prepare the abstract as correct. An abstract or report 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.

(e) The date of the conviction, finding, forfeiture, judgment, or civil infraction determination.

(f) Whether bail was forfeited.

(g) Any license restriction, suspension, or denial ordered by the court as provided by law.

(h) The vehicle identification number and registration plate number of all vehicles that are ordered immobilized or forfeited.

(i) Other information considered necessary to the secretary of state.

(4) The clerk of the court also shall forward an abstract of the court record to the secretary of state upon a person's conviction involving any of the following:

(a) A violation of section 413, 414, or 479a of the Michigan penal code, 1931 PA 328, MCL 750.413, 750.414, and 750.479a.

(b) A violation of section 1 of former 1931 PA 214.

(c) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle.

(d) A violation of section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to that section.

(e) A violation of section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a.

(f) A violation of motor carrier safety regulations 49 CFR 392.10 or 392.11 as adopted by section 1a of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11a.

(g) A violation of section 57 of the pupil transportation act, 1990 PA 187, MCL 257.1857.

(h) A violation of motor carrier safety regulations 49 CFR 392.10 or 392.11 as adopted by section 31 of the motor bus transportation act, 1982 PA 432, MCL 474.131.

(i) An attempt to violate, a conspiracy to violate, or a violation of part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, or a local ordinance that prohibits conduct prohibited under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, unless the convicted person is sentenced to life imprisonment or a minimum term of imprisonment that exceeds 1 year for the offense.

(j) An attempt to commit an offense described in subdivisions (a) to (h).

(k) A violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(l) A violation of section 3101, 3102(1), or 3103 of the insurance code of 1956, 1956 PA 218, MCL 500.3101, 500.3102, and 500.3103.

(m) A violation listed as a disqualifying offense under 49 CFR 383.51.

(5) The clerk of the court shall also forward an abstract of the court record to the secretary of state if a person has pled guilty to, or offered a plea of admission in a juvenile proceeding for, a violation of section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to that section, and has had further proceedings deferred under that section. If the person is sentenced to a term of probation and terms and conditions of probation are fulfilled and the court discharges the individual and dismisses the proceedings, the court shall also report the dismissal to the secretary of state.

(6) As used in subsections (7) to (9), “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.

(7) 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, 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, 1949 PA 300, MCL 257.319, your driver’s license shall be suspended by the secretary of state.”

(8) If a juvenile 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, the prosecuting attorney or family division of circuit court shall include the following statement on the petition filed in the 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, 1949 PA 300, MCL 257.319, your driver’s license shall be suspended by the secretary of state.”

(9) If the court determines as part of the sentence or disposition that the felony for which the person was convicted or adjudicated and with respect to which notice was given under subsection (7) or (8) 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 to the secretary of state.

(10) As used in subsections (11) and (12), “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.

(11) 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), 319b(1)(e)(iii), or 319b(1)(f)(i), 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, 1949 PA 300, MCL 257.319b, all vehicle group designations on your driver’s license shall be suspended or revoked by the secretary of state.”

(12) 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 under subsection (11) 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.

(13) 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.

(14) The failure, refusal, or neglect of a person to comply with this section constitutes misconduct in office and is grounds for removal from office.

(15) Except as provided in subsection (16), 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.

(16) 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 or civil infraction determination for any of the following violations:

- (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, other than a violation of section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b or a local ordinance substantially corresponding to section 624a or 624b.
- (e) A violation of section 710e or a local ordinance substantially corresponding to section 710e.

(f) A violation of section 328(1) if, before the appearance date on the citation, the person submits proof to the court that the motor vehicle had insurance meeting the requirements of sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 and



500.3102, at the time the citation was issued. Insurance obtained subsequent to the time of the violation does not make the violation an exception under this subsection.

(g) A violation described in section 319b(10)(b)(*vii*) if, before the court appearance date or date fines are to be paid, the person submits proof to the court that he or she held a valid commercial driver license on the date the citation was issued.

(h) A violation of section 311 if the person was driving a noncommercial vehicle and, before the court appearance date or the date fines are to be paid, the person submits proof to the court that he or she held a valid driver license on the date the citation was issued.

(17) Except as otherwise provided in this subsection, 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. The secretary of state shall enter on the master driving record an abstract for a conviction as defined in section 8a(b) that occurred outside this state in connection with the operation of a commercial motor vehicle or for a conviction of a person licensed as a commercial motor vehicle driver.

(18) 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.

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

(20) 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, or settlement 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, or settlement 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.

(21) Notwithstanding any other law of this state, a court shall not take under advisement an offense committed by a person while operating a commercial motor vehicle or by a person licensed to drive a commercial motor vehicle while operating a noncommercial motor vehicle at the time of the offense, for which this act requires a conviction or civil infraction determination to be reported to the secretary of state. A conviction or civil infraction determination that is the subject of this subsection shall not be masked, delayed, diverted, suspended, or suppressed by a court. Upon a conviction or civil infraction determination, the conviction or civil infraction determination shall immediately be reported to the secretary of state in accordance with this section.

(22) Except as provided in this act and notwithstanding any other provision of law, a court shall not order expunction of any violation reportable to the secretary of state under this section.

### **257.741 Civil infraction action as civil action; commencement; plaintiff; jurisdiction; time and place for appearance; venue.**

Sec. 741. (1) A civil infraction action is a civil action in which the defendant is alleged to be responsible for a civil infraction. A civil infraction action is commenced upon the issuance and service of a citation as provided in section 742. The plaintiff in a civil infraction action shall be either the state if the alleged civil infraction is a violation of this act, or a

political subdivision if the alleged civil infraction is a violation of a local ordinance of that subdivision which substantially corresponds to a provision of this act.

(2) The following courts shall have jurisdiction over civil infraction actions:

(a) The district court.

(b) Any municipal court.

(3) The time specified in a citation for appearance shall be within a reasonable time after the citation is issued pursuant to section 742.

(4) The place specified in the citation for appearance shall be the court listed in subsection (2) which has territorial jurisdiction of the place where the civil infraction occurred. Venue in the district court shall be governed by section 8312 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8312.

(5) If the person cited is a minor, that individual shall be permitted to appear in court or to admit responsibility for a civil infraction without the necessity of appointment of a guardian or next friend. The courts listed in subsection (2) shall have jurisdiction over the minor and may proceed in the same manner and in all respects as if that individual were an adult.

### **257.743 Contents of citation issued pursuant to MCL 257.742; timely appearance.**

Sec. 743. (1) A citation issued pursuant to section 742 shall contain the name of the state or political subdivision acting as plaintiff, the name and address of the person to whom the citation is issued, the civil infraction alleged, the place where the person shall appear in court, the telephone number of the court, the time at or by which the appearance shall be made, and the additional information required by this section.

(2) The citation shall inform the defendant to the effect that he or she, at or by the time specified for appearance, may:

(a) Admit responsibility for the civil infraction in person, by representation, or by mail.

(b) Admit responsibility for the civil infraction “with explanation” in person, by representation, or by mail.

(c) Deny responsibility for the civil infraction by doing either of the following:

(i) Appearing in person for an informal hearing before a district court magistrate or a judge without the opportunity of being represented by an attorney.

(ii) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

(3) The citation shall inform the defendant that if the person desires to admit responsibility “with explanation” other than by mail or to have an informal hearing or a formal hearing, the person must apply to the court in person, by mail, or by telephone, within the time specified for appearance and obtain a scheduled date and time to appear for a hearing. A hearing date may be specified on the citation.

(4) The citation shall contain a notice in boldface type that the failure of a person to appear within the time specified in the citation or at the time scheduled for a hearing or appearance will result in entry of a default judgment against the person and in the immediate suspension of the person’s operator’s or chauffeur’s license. Timely application to the court for a hearing or return of the citation with an admission of responsibility and with full payment of applicable civil fines and costs constitute a timely appearance.

(5) If the citation is issued to a person who is operating a commercial motor vehicle, the citation shall contain a vehicle group designation and indorsement description of the vehicle, which vehicle is operated by the person at the time of the alleged civil infraction.

**257.746 Informal hearing; procedure.**

Sec. 746. (1) An informal hearing shall be conducted by a district court magistrate when authorized by the judge or judges of the district court district or by a judge of a court listed in section 741(2). A district court magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law at an informal hearing. The judge or district court magistrate shall conduct the informal hearing in an informal manner so as to do substantial justice according to the rules of substantive law but shall not be bound by the statutory provisions or rules of practice, procedure, pleading, or evidence, except provisions relating to privileged communications. There shall not be a jury at an informal hearing. A verbatim record of an informal hearing shall not be required.

(2) At an informal hearing the person cited may not be represented by an attorney nor may the plaintiff be represented by the prosecuting attorney or attorney for a political subdivision.

(3) Notice of a scheduled informal hearing shall be given to the citing police agency, which agency may subpoena witnesses for the plaintiff. The defendant may also subpoena witnesses. Witness fees need not be paid in advance to a witness. Witness fees for a witness on behalf of the plaintiff are payable by the district control unit of the district court for the place where the hearing occurs, by the city or village when the hearing involves an ordinance violation in a district where the district court is not functioning, or by the county when the hearing involves a violation of this act in a district where the district court is not functioning.

(4) If the judge or district court magistrate determines by a preponderance of the evidence that the person cited is responsible for a civil infraction, the judge or magistrate shall enter an order against the person as provided in section 907. Otherwise, a judgment shall be entered for the defendant, but the defendant shall not be entitled to costs of the action.

(5) The plaintiff and defendant shall be entitled to appeal an adverse judgment entered at an informal hearing. An appeal from a municipal judge shall be a trial de novo in the circuit court. In other instances an appeal shall be de novo in the form of a scheduled formal hearing as follows:

(a) The appeal from a judge of the district court shall be heard by a different judge of the district.

(b) The appeal from a district court magistrate shall be heard by a judge of the district.

**257.801c Nonpayment of check or draft for fee or tax on vehicle; liability; penalties; collection of delinquent accounts.**

Sec. 801c. (1) If a check or draft in payment of a fee or tax under this act is not paid on its first presentation, the fee or tax is delinquent as of the date the check or draft was tendered. The person tendering the check or draft remains liable for the payment of each fee or tax and a penalty.

(2) If a fee or tax is still delinquent 15 days after the department gives notice to the person tendering the check or draft, a penalty shall be assessed and collected in addition to the fee or tax, and the penalty shall be deposited in the state general fund. The penalty shall be assessed according to the following table:

Amount of Check or Draft	Penalty
\$ .01 to 15.00	\$ 5.00
15.01 to 50.00	10.00
50.01 to 100.00	20.00
100.01 to 300.00	60.00
300.01 and higher	20% of the check or draft

(3) An operator's or chauffeur's license shall not be issued or renewed for a person who has had outstanding against him or her a claim resulting from nonpayment of a check or draft used to pay a fee or tax to the secretary of state.

(4) The department shall suspend, until all fees, taxes, and penalties due are paid, the operator's or chauffeur's license of a person who has had outstanding against him or her for not less than 60 days a claim resulting from nonpayment of a check or draft used to pay a fee or tax to the secretary of state. A person whose operator's or chauffeur's license has been suspended under this section shall not be subject to the examination provisions of section 320c.

(5) The collection of delinquent accounts remains the responsibility of the office of secretary of state.

**257.811k Michigan lighthouse preservation grant fund; creation and expenditure of fund; annual accounting; grant awards; transfer and disposition of collected donations.**

Sec. 811k. (1) The Michigan lighthouse preservation grant fund is created as a separate fund in the department of treasury. The fund shall be expended only as provided in this section. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. The state treasurer shall annually present to the department of history, arts, and libraries an accounting of the amount of money in the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(2) The department of history, arts, and libraries shall administer the Michigan lighthouse preservation fund and may expend money from that fund through discretionary historical grants to preserve Michigan lighthouses. The department of history, arts, and libraries shall use not more than 10% of the funds for costs that occur from fund administration and grant project coordination.

(3) The department of history, arts, and libraries may award grants under subsection (2) for the preparation of plans and specifications for restoration and stabilization and for stabilization, rehabilitation, or other preservation work on a Michigan lighthouse, but grants shall not be awarded for operational purposes. The department of history, arts, and libraries shall allocate grant funds pursuant to eligibility and scoring requirements established by the department of history, arts, and libraries. To award grants under this section, the department of history, arts, and libraries shall solicit applications from eligible recipients, score applications based on the established criteria, and award grants through executed contracts. All plans and work performed under a grant shall be consistent with the United States secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR 67, historic preservation certifications.

(4) Fund-raising donations for plates recognizing the historical lighthouses of this state under sections 811f and 811g shall be transferred under section 811h by the secretary of state to the state treasurer, who shall credit the donation money to the Michigan lighthouse preservation grant fund for the preservation of historic Michigan lighthouses.

**257.907 Civil infraction not crime; payment of civil fine and costs; program of treatment, education, or rehabilitation; sanctions; schedule of civil fines and costs; recommended range of civil fines and costs; certification of repair of defective equipment; collection of civil fines or costs; noncompliance with order or judgment; additional assessment; waiver of fines and costs.**

Sec. 907. (1) A violation of this act, or a local ordinance substantially corresponding to a provision of this act, that is designated a civil infraction shall not be considered a lesser included offense of a criminal offense.

(2) If a person is determined pursuant to sections 741 to 750 to be responsible or responsible “with explanation” for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act, the judge or district court magistrate may order the person to pay a civil fine of not more than \$100.00 and costs as provided in subsection (4). However, for a violation of section 674(1)(s) or a local ordinance substantially corresponding to section 674(1)(s), the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$100.00 or more than \$250.00. For a violation of section 328, the civil fine ordered under this subsection shall be not more than \$50.00. For a violation of section 710d, the civil fine ordered under this subsection shall not exceed \$10.00. For a violation of section 710e, the civil fine and court costs ordered under this subsection shall be \$25.00. For a violation of section 682 or a local ordinance substantially corresponding to section 682, the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$100.00 or more than \$500.00. For a violation of section 240, the civil fine ordered under this subsection shall be \$15.00. For a violation of section 252a(1), the civil fine ordered under this subsection shall be \$50.00. For a violation of section 676a(3), the civil fine ordered under this section shall be not more than \$10.00. For a violation of section 319f(1), the civil fine ordered under this section shall be not less than \$1,100.00 or more than \$2,750.00. For a violation of section 319g(1)(a), the civil fine ordered under this section shall be not more than \$10,000.00. For a violation of section 319g(1)(b), the civil fine ordered under this section shall be not less than \$2,750.00 or more than \$11,000.00. Permission may be granted for payment of a civil fine and costs to be made within a specified period of time or in specified installments, but unless permission is included in the order or judgment, the civil fine and costs shall be payable immediately.

(3) Except as provided in this subsection, if a person is determined to be responsible or responsible “with explanation” for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act while driving a commercial motor vehicle, he or she shall be ordered to pay costs as provided in subsection (4) and a civil fine of not more than \$250.00. If a person is determined to be responsible or responsible “with explanation” for a civil infraction under section 319g or a local ordinance substantially corresponding to section 319g, that person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not more than \$10,000.00.

(4) If a civil fine is ordered under subsection (2) or (3), the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions, and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the civil infraction, up to the entry of judgment. Costs shall not be ordered in excess of \$100.00. A civil fine ordered under subsection (2) or (3) shall not be waived unless costs ordered under this subsection are waived. Except as otherwise provided by law, costs are payable to the general fund of the plaintiff.

(5) In addition to a civil fine and costs ordered under subsection (2) or (3) and subsection (4) and the justice system assessment ordered under subsection (14), the judge or district court magistrate may order the person to attend and complete a program of treatment, education, or rehabilitation.

(6) A district court magistrate shall impose the sanctions permitted under subsections (2), (3), and (5) only to the extent expressly authorized by the chief judge or only judge of the district court district.

(7) Each district of the district court and each municipal court may establish a schedule of civil fines, costs, and assessments to be imposed for civil infractions that occur within the respective district or city. If a schedule is established, it shall be prominently posted and readily available for public inspection. A schedule need not include all violations that

are designated by law or ordinance as civil infractions. A schedule may exclude cases on the basis of a defendant's prior record of civil infractions or traffic offenses, or a combination of civil infractions and traffic offenses.

(8) The state court administrator shall annually publish and distribute to each district and court a recommended range of civil fines and costs for first-time civil infractions. This recommendation is not binding upon the courts having jurisdiction over civil infractions but is intended to act as a normative guide for judges and district court magistrates and a basis for public evaluation of disparities in the imposition of civil fines and costs throughout the state.

(9) If a person has received a civil infraction citation for defective safety equipment on a vehicle under section 683, the court shall waive a civil fine, costs, and assessments upon receipt of certification by a law enforcement agency that repair of the defective equipment was made before the appearance date on the citation.

(10) A default in the payment of a civil fine or costs ordered under subsection (2), (3), or (4) or a justice system assessment ordered under subsection (14), or an installment of the fine, costs, or assessment, may be collected by a means authorized for the enforcement of a judgment under chapter 40 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or under chapter 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

(11) If a person fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the driver's license of that person shall be suspended pursuant to section 321a until full compliance with that order or judgment occurs. In addition to this suspension, the court may also proceed under section 908.

(12) The court shall waive any civil fine, cost, or assessment against a person who received a civil infraction citation for a violation of section 710d if the person, before the appearance date on the citation, supplies the court with evidence of acquisition, purchase, or rental of a child seating system meeting the requirements of section 710d.

(13) Until October 1, 2003, in addition to any civil fines and costs ordered to be paid under this section, the judge or district court magistrate shall levy an assessment of \$5.00 for each civil infraction determination, except for a parking violation or a violation for which the total fine and costs imposed are \$10.00 or less. An assessment paid before October 1, 2003 shall be transmitted by the clerk of the court to the state treasurer to be deposited into the Michigan justice training fund. An assessment ordered before October 1, 2003 but collected on or after October 1, 2003 shall be transmitted by the clerk of the court to the state treasurer for deposit in the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment levied under this subsection is not a civil fine for purposes of section 909.

(14) Effective October 1, 2003, in addition to any civil fines or costs ordered to be paid under this section, the judge or district court magistrate shall order the defendant to pay a justice system assessment of \$40.00 for each civil infraction determination, except for a parking violation or a violation for which the total fine and costs imposed are \$10.00 or less. Upon payment of the assessment, the clerk of the court shall transmit the assessment collected to the state treasury to be deposited into the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment levied under this subsection is not a civil fine for purposes of section 909.

(15) If a person has received a citation for a violation of section 223, the court shall waive any civil fine, costs, and assessment, upon receipt of certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid registration certificate that was valid on the date the violation of section 223 occurred.

(16) If a person has received a citation for a violation of section 328(1) for failing to produce a certificate of insurance pursuant to section 328(2), the court may waive the fee described in section 328(3)(c) and shall waive any fine, costs, and any other fee or assessment otherwise authorized under this act upon receipt of verification by the court that the person, before the appearance date on the citation, produced valid proof of insurance that was in effect at the time the violation of section 328(1) occurred. Insurance obtained subsequent to the time of the violation does not make the person eligible for a waiver under this subsection.

This act is ordered to take immediate effect.

Approved July 18, 2006.

Filed with Secretary of State July 20, 2006.

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**[No. 299]**

**(HB 4870)**

AN ACT to amend 1998 PA 386, entitled “An act to codify, revise, consolidate, and classify aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating to trusts, and relating to the affairs of certain individuals under legal incapacity; to provide for the powers and procedures of the court that has jurisdiction over these matters; to provide for the validity and effect of certain transfers, contracts, and deposits that relate to death; to provide procedures to facilitate enforcement of certain trusts; and to repeal acts and parts of acts,” by amending sections 1104, 3614, and 3701 (MCL 700.1104, 700.3614, and 700.3701), section 1104 as amended by 2005 PA 204 and section 3614 as amended by 2004 PA 343, and by adding sections 3206, 3207, 3208, and 3209.

*The People of the State of Michigan enact:*

**700.1104 Definitions; E to H.**

Sec. 1104. As used in this act:

(a) “Environmental law” means a federal, state, or local law, rule, regulation, or ordinance that relates to the protection of the environment or human health.

(b) “Estate” includes the property of the decedent, trust, or other person whose affairs are subject to this act as the property is originally constituted and as it exists throughout administration. Estate also includes the rights described in sections 3805, 3922, and 7502 to collect from others amounts necessary to pay claims, allowances, and taxes.

(c) “Exempt property” means property of a decedent’s estate that is described in section 2404.

(d) “Family allowance” means the allowance prescribed in section 2403.

(e) “Fiduciary” includes, but is not limited to, a personal representative, guardian, conservator, trustee, plenary or partial guardian appointed as provided in chapter 6 of the mental health code, 1974 PA 258, MCL 330.1600 to 330.1644, and successor fiduciary.

(f) “Financial institution” means an organization authorized to do business under state or federal laws relating to a financial institution and includes, but is not limited to, a bank, trust company, savings bank, building and loan association, savings and loan company or association, and credit union.

(g) “Foreign personal representative” means a personal representative appointed by another jurisdiction.

(h) “Formal proceedings” means proceedings conducted before a judge with notice to interested persons.

(i) “Funeral establishment” means that term as defined in section 1801 of the occupational code, 1980 PA 299, MCL 339.1801, and the owners, employees, and agents of the funeral establishment.

(j) “General personal representative” means a personal representative other than a special personal representative.

(k) “Governing instrument” means a deed; will; trust; insurance or annuity policy; account with POD designation; security registered in beneficiary form (TOD); pension, profit-sharing, retirement, or similar benefit plan; instrument creating or exercising a power of appointment or a power of attorney; or dispositive, appointive, or nominative instrument of any similar type.

(l) “Guardian” means a person who has qualified as a guardian of a minor or a legally incapacitated individual under a parental or spousal nomination or a court appointment and includes a limited guardian as described in sections 5205, 5206, and 5306. Guardian does not include a guardian ad litem.

(m) “Hazardous substance” means a substance defined as hazardous or toxic or otherwise regulated by an environmental law.

(n) “Heir” means, except as controlled by section 2720, a person, including the surviving spouse or the state, that is entitled under the statutes of intestate succession to a decedent’s property.

(o) “Homestead allowance” means the allowance prescribed in section 2402.

**700.3206 Right and power to make decisions about funeral arrangements and handling, disposition, or disinterment of decedent’s body; presumption; priority; shared rights and powers; personal representative or nominated personal representative; guardian; special personal representative; additional persons; reasonable attempt to locate person; “nominated personal representative” defined.**

Sec. 3206. (1) Subject to 1953 PA 181, MCL 52.201 to 52.216, and to part 28 and article 10 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899 and 333.10101 to 333.11101, a person with priority under subsections (2) to (4) or acting under subsection (5), (6), (7), or (8) is presumed to have the right and power to make decisions about funeral arrangements and the handling, disposition, or disinterment of a decedent’s body, including, but not limited to, decisions about cremation, and the right to possess cremated remains of the decedent. The handling, disposition, or disinterment of a body shall be under the supervision of a person licensed to practice mortuary science in this state.

(2) The surviving spouse or, if there is no surviving spouse, the individual or individuals 18 years of age or older, in the highest order of priority under section 2103, and related to the decedent in the closest degree of consanguinity, have the rights and powers under subsection (1).



(3) If the surviving spouse or the individual or individuals with the highest priority as determined under subsection (2) do not exercise their rights or powers under subsection (1) or cannot be located after a good-faith effort to contact them, the rights and powers under subsection (1) may be exercised by the individual or individuals in the same order of priority under section 2103 who are related to the decedent in the next closest degree of consanguinity. If the individual or each of the individuals in an order of priority as determined under this subsection similarly does not exercise his or her rights or powers or cannot be located, the rights or powers under subsection (1) pass to the next order of priority, with the order of priority being determined by first taking the individuals in the highest order of priority under section 2103 and then taking the individuals related to the decedent in the closest or, as applicable, next closest degree of consanguinity in that order of priority.

(4) If 2 or more individuals share the rights and powers described in subsection (1) as determined under subsection (2) or (3), the rights and powers shall be exercised as decided by a majority of the individuals. If a majority cannot agree, any of the individuals may file a petition under section 3207.

(5) If no individual described in subsections (2) and (3) exists, exercises the rights or powers under subsection (1), or can be located after a sufficient attempt as described in subsection (9), and if subsection (6) does not apply, then the personal representative or nominated personal representative may exercise the rights and powers under subsection (1), either before or after his or her appointment.

(6) If no individual described in subsections (2) and (3) exists, exercises the rights or powers under subsection (1), or can be located after a sufficient attempt as described in subsection (9), and if the decedent was under a guardianship at the time of death, the guardian may exercise the rights and powers under subsection (1) and may make a claim for the reimbursement of burial expenses as provided in section 5216 or 5315, as applicable.

(7) If no individual described in subsections (2) and (3) exists, exercises the rights or powers under subsection (1), or can be located after a sufficient attempt as described in subsection (9), if the decedent died intestate, and if subsection (6) does not apply, a special personal representative appointed under section 3614(c) may exercise the rights and powers under subsection (1).

(8) If there is no person under subsections (2) to (7) to exercise the rights and powers under subsection (1), 1 of the following, as applicable, shall exercise the rights and powers under subsection (1):

(a) Unless subdivision (b) applies, the county public administrator, if willing, or the medical examiner for the county where the decedent was domiciled at the time of his or her death.

(b) If the decedent was incarcerated in a state correctional facility at the time of his or her death, the director of the department of corrections or the designee of the director.

(9) An attempt to locate a person described in subsection (2) or (3) is sufficient if a reasonable attempt is made in good faith by a family member, personal representative, or nominated personal representative of the decedent to contact the person at his or her last known address, telephone number, or electronic mail address.

(10) This section does not void or otherwise affect a gift made under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(11) As used in this section, “nominated personal representative” means a person nominated to act as personal representative in a will that the nominated person reasonably believes to be the valid will of the decedent.

**700.3207 Petition; venue; hearing date; notice of hearing; funeral establishment as petitioner; factors to be considered in court decision.**

Sec. 3207. (1) If there is a disagreement as described in section 3206(4) or if 1 or more of the individuals described in section 3206(2) or (3) cannot be located, 1 or more of the following may petition the court to determine who has the authority to exercise the rights and powers under section 3206(1):

- (a) An individual with the rights and powers under section 3206(1).
- (b) A funeral establishment that has custody of the decedent's body.

(2) Venue for a petition filed under subsection (1) is in the county in which the decedent was domiciled at the time of death.

(3) On receipt of a petition under this section, the court shall set a date for a hearing on the petition. The hearing date shall be as soon as possible, but not later than 7 business days after the date the petition is filed. Notice of the petition and the hearing shall be served not less than 2 days before the date of the hearing on every individual who has highest priority as determined under section 3206(2) and (3), unless the court orders that service on every such individual is not required. Unless an individual cannot be located after a reasonable good-faith effort has been made to contact the individual, service shall be made on the individual personally or in a manner reasonably designed to give the individual notice. Notice of the hearing shall include notice of the individual's right to appear at the hearing. An individual served with notice of the hearing may waive his or her rights. If written waivers from all persons entitled to notice are filed, the court may immediately hear the petition. The court may waive or modify the notice and hearing requirements of this subsection if the decedent's body must be disposed of promptly to accommodate the religious beliefs of the decedent or his or her next of kin.

(4) If a funeral establishment is the petitioner under this section, the funeral establishment's actual costs and reasonable attorney fees in bringing the proceeding shall be included in the reasonable funeral and burial expenses under section 3805(b) or the court may assess such costs and fees against 1 or more parties or intervenors.

(5) In deciding a petition brought under this section, the court shall consider all of the following, in addition to other relevant factors:

(a) The reasonableness and practicality of the funeral arrangements or the handling or disposition of the body proposed by the person bringing the action in comparison with the funeral arrangements or the handling or disposition of the body proposed by 1 or more individuals with the rights and powers under section 3206(1).

(b) The nature of the personal relationship to the deceased of the person bringing the action compared to other individuals with the rights and powers under section 3206(1).

(c) Whether the person bringing the action is ready, willing, and able to pay the costs of the funeral arrangements or the handling or disposition of the body.

**700.3208 Filing in circuit court to challenge presumption; venue.**

Sec. 3208. (1) An individual other than a person with priority under subsections (2) to (4) or acting under subsection (5), (6), (7), or (8), may file an action in the circuit court to challenge the presumption to be determined as the individual who has the authority to exercise the rights and powers under section 3206(1).

(2) Venue for an action filed under this section is in the county in which the decedent was domiciled at the time of death.

**700.3209 Funeral establishment not civilly liable.**

Sec. 3209. (1) A funeral establishment is not required to file a petition under section 3207 and is not civilly liable for not doing so.