

RESTRICTED DRIVING LICENSE REVISIONS

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House Bill 5282 as reported w/o amendment

Sponsor: Rep. Peter J. Lucido

Committee: Judiciary

Complete to 2-21-18

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 99 of 2018)

BRIEF SUMMARY: House Bill 5282 would revise provisions pertaining to instances in which a person accesses the circuit court to, for certain offenses, receive a restricted license to specify that the court would not continue to retain jurisdiction over the case.

FISCAL IMPACT: House Bill 5282 would have no fiscal impact on the Secretary of State.

THE APPARENT PROBLEM:

Public Act 117 of 2017, among several things, expanded the instances in which a person who has lost driving privileges, and who has exhausted the Secretary of State appeals process, could access the circuit court to have full driving privileges restored or, for certain offenses, receive a restricted license. Apparently, some courts have continued to retain jurisdiction over the person and the restored or restricted license rather than relinquishing the matter to the Secretary of State. Legislation has been offered to make needed adjustments to provisions added to the Michigan Vehicle Code by Public Act 117.

THE CONTENT OF THE BILL:

For certain violations of the Michigan Vehicle Code that result in the loss of driving privileges, a person can petition for a hearing before a Secretary of State (SOS) hearing officer. If the officer affirms the license sanction, the person can appeal to the circuit court to have the SOS determination set aside or modified. Section 323 of the Code establishes the circumstances under which the circuit court has the authority to set aside the SOS determination and restore the person's driving privileges in full or in part. House Bill 5282 would amend Section 323 to revise this process.

Currently, in determining whether a person petitioning the court is eligible for review of a revocation or a denial under Section 303 (e.g., drunk driving or negligent homicide resulting from the operation of a vehicle, among numerous violations), or whether he or she is eligible for a restricted license, one or more of certain listed circumstances must apply to the situation. House Bill 5282 would revise this to require that all of the listed circumstances must apply. Further, if the court determines under this provision that the person is eligible for restricted privileges, the court must issue an order that requires certain things to be done. One of the requirements is that each motor vehicle operated by the person be equipped with an ignition interlock device for a period of *one year*. The bill would instead specify that the ignition interlock device be installed and functioning for a period *not less than 1 year before the petitioner would be allowed to return to the SOS for a hearing*. Other elements required to be in the court's order would remain the same.

Further, the bill would require that if a court determines that a petitioner is eligible for restricted driving privileges, the court must notify the SOS of its determination through the issuance of an order as described above and would not retain jurisdiction over that license.

The bill would take effect 90 days after being enacted.

MCL 257.323

ARGUMENTS:

For:

The bill is believed to be technical, rather than substantive, in nature. It provides clarity that in the case of restoring restricted driving privileges upon appeal to the circuit court, the court would not retain jurisdiction over that restricted driver license. The bill would also revise language added by Public Act 117 of 2016 so to preserve as a condition for eligibility to petition the court to set aside a SOS determination that the petitioner's substantial rights have been prejudiced by that determination.

Against:

No arguments in opposition to the bill were offered.

POSITIONS:

The Department of Secretary of State indicated support for the bill. (12-5-17)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Michael Cnossen

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