

HOUSE BILL No. 5054

September 21, 1989, Introduced by Rep. Richard A. Young and referred to the Committee on Appropriations.

A bill to amend section 323 of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

as amended by Act No. 346 of the Public Acts of 1988, being section 257.323 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 323 of Act No. 300 of the Public Acts of
2 1949, as amended by Act No. 346 of the Public Acts of 1988, being
3 section 257.323 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 323. (1) A person who is aggrieved by a final determi-
6 nation of the secretary of state denying the person an operator's
7 or chauffeur's license, a vehicle group designation, or an
8 indorsement on a license or revoking, suspending, or restricting
9 an operator's or chauffeur's license, vehicle group designation,

1 or an indorsement may petition for a review of the determination
2 in the circuit court in the county where the person was arrested
3 if the denial or suspension was imposed pursuant to section 625f
4 or pursuant to the order of a trial court under section 328 or,
5 in all other cases, in the circuit court in the county of resi-
6 dence of the person.

7 (2) IN ADDITION TO ANY OTHER REQUIRED FEE, A PERSON FILING A
8 PETITION PURSUANT TO THIS SECTION SHALL PAY A NONREFUNDABLE FEE
9 OF \$35.00 TO THE COURT AT THE TIME THE PETITION IS FILED. THE
10 FEE COLLECTED UNDER THIS SUBSECTION SHALL BE DEPOSITED IN THE
11 STATE TREASURY TO THE CREDIT OF THE GENERAL FUND.

12 (3) ~~-(2)-~~ The circuit court shall enter an order setting the
13 cause for hearing for a day certain in not to exceed 60 days
14 after the date of the order. The order, together with a copy of
15 the petition which shall include the person's full name, current
16 address, birth date, and driver's license number, and all sup-
17 porting affidavits, shall be served on the secretary of state's
18 office in Lansing not less than 20 days before the date set for
19 the hearing. If the person is seeking a review of the record
20 prepared pursuant to section 625f(3) to determine whether the
21 hearing officer properly determined the issues enumerated in sec-
22 tion 625f(2), ~~-then-~~ the service upon the secretary of state
23 shall be made not less than 50 days before the date set for the
24 hearing.

25 (4) ~~-(3)-~~ Except as provided in subsection ~~-(4)-~~ (5), the
26 court may take testimony and examine into all the facts and
27 circumstances incident to the denial, suspension, restriction, or

1 revocation of the person's license. The court may affirm,
2 modify, or set aside the restriction, suspension, revocation, or
3 denial except that the court shall not order the secretary of
4 state to issue a restricted or unrestricted chauffeur's license
5 ~~which~~ THAT would permit a person to drive a truck or truck
6 tractor, including a trailer, ~~which~~ THAT hauls a hazardous
7 material. The order of the court shall be duly entered and a
8 certified copy shall be filed immediately with the secretary of
9 state's office in Lansing.

10 (5) ~~(4)~~ In reviewing a determination resulting in a denial
11 or suspension under section 625f, the court shall confine its
12 consideration to 1 or both of the following:

13 (a) A review of the record prepared pursuant to section
14 625f(3) to determine whether the hearing officer properly deter-
15 mined the issues enumerated in section 625f(2).

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

18 (6) ~~(5)~~ This section ~~shall~~ DOES not apply to a denial,
19 revocation, suspension, or restriction imposed pursuant to a
20 court order issued as part of the sentence for ~~of~~ a conviction
21 of a violation of section 625 or 625b, or a local ordinance sub-
22 stantially corresponding to section 625(1) or (2) or 625b.

23 (7) ~~(6)~~ This section ~~shall~~ DOES not apply to a denial,
24 revocation, suspension, or restriction imposed pursuant to the
25 financial responsibility act contained in chapter V.