

**disposition of money received and collected under subsection (7); refund to county or municipality; compliance with §§ 257.303 and 257.319b.**

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 single 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 combination of vehicles having a gross combination weight rating under 26,001 pounds if the vehicle being towed does not have a gross vehicle weight rating over 10,000 pounds and carrying hazardous materials on which a placard is required under 49 C.F.R. 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 C.F.R. 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.

(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.

(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 C.F.R. 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 designed to transport 16 or more passengers including the driver, 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.

(6) An applicant for an indorsement shall take the knowledge and driving skills tests described and required pursuant to 49 C.F.R. part 383.

(7) 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 \$20.00 and an indorsement fee of \$5.00 per indorsement, and a corrected license fee of \$6.00. A person required to procure an F vehicle indorsement pursuant to subsection (9) shall pay an indorsement fee of \$5.00.

(8) Except as otherwise provided in subsections (9) and (10), 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.

(9) 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 (8)(a) to (d), shall obtain an F vehicle indorsement. The F vehicle indorsement shall be issued upon successful completion of a knowledge test only.

(10) 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 (8)(a) to (d) for carrying hazardous materials on which a placard is required under 49 C.F.R. 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.

(11) 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 of the Michigan fire fighters' training council.

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

(13) The money received and collected under subsection (7) 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.

(14) Notwithstanding any other provision of this section, a person operating a vehicle described in subsections (8) and (9) is subject to the provisions of sections 303 and 319b.

**257.312f Vehicle group designation or indorsement on operator's or chauffeur's license; age; tests; waiver; conditions prohibiting issuance of vehicle group designation; determining applicability of subsection (5); definitions.**

Sec. 312f. (1) Except as otherwise provided in this section, a person shall be at least 18 years of age before he or she is issued a vehicle group designation or indorsement, other than a motorcycle 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 C.F.R. part 383. A person operating a vehicle to be used for farming purposes only may obtain an A or B vehicle group designation or an F vehicle indorsement if he or she is at least 16 years of age. 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(8)(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 C.F.R. parts 100 to 199. The driving skills test may be waived if the applicant has a valid license with the appropriate vehicle group designation or passenger vehicle indorsement in another state issued in compliance with chapter 313 of title 49 of the United States Code, 49 U.S.C. 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 1 of the following:

(i) An applicant who has between 1 and 2 years of driving experience shall possess a good driving record for his or her entire driving history.

(ii) An applicant who has more than 2 years of driving experience shall possess a good driving record for the 2 years immediately preceding application.

(b) The seasons for which the seasonal restricted vehicle group designation is issued shall be 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. The good driving record shall be confirmed before each season and 180-day 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 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, T, or X vehicle indorsement.

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

(4) The secretary of state may enter into an agreement with another public or private person or agency to conduct a skills test required under this section, section 312e, or 49 C.F.R. part 383.

(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, 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 violation occurred while the applicant was operating a commercial 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 chapter 313 of title 49 of the United States Code, 49 U.S.C. 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.

(6) The secretary of state shall not issue a vehicle group designation to an applicant to renew or upgrade a vehicle group designation if 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 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 C.F.R. 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 480.22.

(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 chapter 313 of title 49 of the United States Code, 49 U.S.C. 31301 to 31317.

(12) As used in this section:

(a) "Farm related service industry" means custom harvesters, farm retail outlets and suppliers, agri-chemical business, or livestock feeders.

(b) "Good driving record" means the criteria required under regulations described at 49 C.F.R. 383.77 and 57 F.R. 75, P. 13650 (April 17, 1992).

### **257.319 Mandatory suspension of license; record of conviction for certain crimes; waiver; restricted license; prior convictions.**

Sec. 319. (1) The secretary of state shall immediately suspend a person's license as provided in this section upon receiving a record of the person's conviction for a crime described in this section, whether the conviction is under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state.

(2) The secretary of state shall suspend the person's license for 1 year for any of the following crimes:

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

(b) A violation of section 413 of the Michigan penal code, 1931 PA 328, MCL 750.413.

(c) A violation of section 1 of former 1931 PA 214, MCL 752.191, or section 626c.

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

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

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

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

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

(e) A violation of section 602a(2) or (3) of this act or section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

(3) The secretary of state shall suspend the person’s license for 90 days for any of the following crimes:

(a) Failing to stop and disclose identity at the scene of an accident resulting in injury in violation of section 617a.

(b) A violation of section 601b(2), section 601c(1), section 626, or section 653a(3).

(c) Malicious destruction resulting from the operation of a vehicle under section 382(1)(b), (c), or (d) of the Michigan penal code, 1931 PA 328, MCL 750.382.

(d) A violation of section 703(2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(4) The secretary of state shall suspend the person’s license for 30 days for malicious destruction resulting from the operation of a vehicle under section 382(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.382.

(5) For perjury or making a false certification to the secretary of state under any law requiring the registration of a motor vehicle or regulating the operation of a vehicle on a highway, or for conduct prohibited under section 324(1) or a local ordinance substantially corresponding to section 324(1), the secretary shall suspend the person’s license as follows:

(a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 90 days.

(b) If the person has 1 or more prior convictions for an offense described in this subsection within 7 years, for 1 year.

(6) For a violation of section 414 of the Michigan penal code, 1931 PA 328, MCL 750.414, the secretary of state shall suspend the person’s license as follows:

(a) If the person has no prior conviction for that offense within 7 years, for 90 days.

(b) If the person has 1 or more prior convictions for that offense within 7 years, for 1 year.

(7) For a violation of section 624a or 624b of this act or section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, the secretary of state shall suspend the person’s license as follows:

(a) If the person has 1 prior conviction for an offense described in this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, for 90 days. The secretary of state may issue the person a restricted license after the first 30 days of suspension.

(b) If the person has 2 or more prior convictions for an offense described in this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue the person a restricted license after the first 60 days of suspension.

(8) The secretary of state shall suspend the person's license for a violation of section 625 or 625m as follows:

(a) For 180 days for a violation of section 625(1) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension, except that the secretary of state shall not issue a restricted license during the first 30 days of suspension.

(b) For 90 days for a violation of section 625(3) if the person has no prior convictions within 7 years. However, if the person is convicted of a violation of section 625(3), for operating a vehicle when, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate the vehicle was visibly impaired, the secretary of state shall suspend the person's license under this subdivision for 180 days. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.

(c) For 30 days for a violation of section 625(6) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.

(d) For 90 days for a violation of section 625(6) if the person has 1 or more prior convictions for that offense within 7 years.

(e) For 180 days for a violation of section 625(7) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license after the first 90 days of suspension.

(f) For 90 days for a violation of section 625m if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.

(9) For a violation of section 367c of the Michigan penal code, 1931 PA 328, MCL 750.367c, the secretary of state shall suspend the person's license as follows:

(a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 6 months.

(b) If the person has 1 or more convictions for an offense described in this subsection within 7 years, for 1 year.

(10) For a violation of section 315(4), the secretary of state may suspend the person's license for 6 months.

(11) For a violation or attempted violation of section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school, the secretary of state shall suspend the license of a person 14 years of age or over but less than 21 years of age until 3 years after the date of the conviction or juvenile disposition for the violation. The secretary of state may issue the person a restricted license after the first 365 days of suspension.

(12) Except as provided in subsection (14), a suspension under this section shall be imposed notwithstanding a court order unless the court order complies with section 323.

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

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

(15) The secretary of state shall not issue a restricted license to a person whose license is suspended under this section unless a restricted license is authorized under this section and the person is otherwise eligible for a license.

(16) The secretary of state shall not issue a restricted license to a person under subsection (8) that would permit the person to operate a commercial motor vehicle that transports hazardous material in amounts requiring a placard under the hazardous materials regulations, 49 C.F.R. parts 100 to 199.

(17) A restricted license issued under this section shall permit the person to whom it is issued to drive under 1 or more of the following circumstances:

(a) In the course of the person's employment or occupation.

(b) To and from any combination of the following:

(i) The person's residence.

(ii) The person's work location.

(iii) An alcohol or drug education or treatment program as ordered by the court.

(iv) The court probation department.

(v) A court-ordered community service program.

(vi) An educational institution at which the person is enrolled as a student.

(vii) A place of regularly occurring medical treatment for a serious condition for the person or a member of the person's household or immediate family.

(18) While driving with a restricted license, the person shall carry proof of his or her destination and the hours of any employment, class, or other reason for traveling and shall display that proof upon a peace officer's request.

(19) Subject to subsection (21), as used in subsection (8), "prior conviction" means a conviction for 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) Except as provided in subsection (20), a violation or attempted violation of section 625(1), (3), (4), (5), (6), or (7), section 625m, former section 625(1) or (2), or former section 625b.

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

(20) Except for purposes of the suspensions described in subsection (8)(c) and (d), only 1 violation or attempted violation of section 625(6), a local ordinance substantially corresponding to section 625(6), or a law of another state substantially corresponding to section 625(6) may be used as a prior conviction.



(21) If 2 or more convictions described in subsection (19) are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

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

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, 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 licensee 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 C.F.R. 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 C.F.R. 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 C.F.R. 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 licensee 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 licensee is convicted of or found responsible for 1 of the following:

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

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

(iii) A felony in which a commercial 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 motor vehicle as required by a law or local ordinance of this state or another state.

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

(vi) 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 licensee is convicted of or found responsible for an offense enumerated in subdivision (c)(i) to (v) in which a commercial motor vehicle was used if the vehicle was carrying hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199.

(e) Revocation for not less than 10 years and until the person is approved for the issuance of a vehicle group designation if a licensee is convicted of or found responsible for 1 of the following:

(i) Any combination of 2 violations arising from 2 or more separate incidents under section 625(1), (3), (4), (5), (6), or (7), section 625m, or former section 625(1) or (2), or former section 625b, while driving a commercial motor vehicle.

(ii) Two violations of leaving the scene of an accident involving a commercial motor vehicle operated by the licensee.

(iii) Two violations of a felony in which a commercial motor vehicle was used.

(iv) Two refusals 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 motor vehicle in this state or another state, which refusals occurred in separate incidents.

(v) Two 6-point violations as provided in section 320a while operating a commercial motor vehicle.

(vi) Two violations, in any combination, of the offenses enumerated under subparagraph (i), (ii), (iii), (iv), or (v) arising from 2 or more separate incidents.

(f) Revocation for life if a licensee 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 issuance 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 revoke for life the hazardous material indorsement (H vehicle indorsement) on the operator's or chauffeur's license of a person with a vehicle group designation upon receiving notice from the U.S. department of transportation that the person poses a security risk warranting denial 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, 115 Stat. 272.

(3) The secretary of state shall immediately suspend 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 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 licensee 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 licensee 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 pursuant to 49 C.F.R. parts 100 to 199 or designed to carry 16 or more passengers, including the driver.

(c) Suspension for 1 year if the licensee 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 licensee 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 licensee 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 pursuant to 49 C.F.R. 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) 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 a traffic violation that occurs in connection with an accident in which a person died, careless driving, excessive speeding as defined in regulations promulgated under chapter 313 of title 49 of the United States Code, 49 U.S.C. 31301 to 31317, improper lane use, following too closely, or any other serious traffic violation as defined in 49 C.F.R. 383.5 or as prescribed under this act.

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

**257.319c Providing United States department of transportation with information pertaining to operator's or chauffeur's license with vehicle group designation; notification of motor vehicle administrator or other appropriate officer.**

Sec. 319c. (1) The secretary of state shall provide the United States department of transportation with the following information pertaining to an operator's or chauffeur's license with a vehicle group designation:

(a) A notice of the issuance of an operator's or chauffeur's license with a vehicle group designation within 10 days after the issuance of the license.

(b) A notice of a suspension, revocation, or denial of a license within 10 days after the suspension, revocation, or denial. If the licensee is a nonresident, a notice of the state that issued the suspension, revocation, or denial of the license shall also be provided.

(2) Within 10 days after receiving a record of conviction, civil infraction determination, or forfeiture of bail in this state of a nonresident driver of a commercial motor vehicle for a violation under the motor vehicle laws of this state, other than a parking violation, the secretary of state shall notify the motor vehicle administrator or other appropriate officer in the state in which the person is licensed.

**257.319g Prohibitions; violations.**

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, or 669a.

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

(2) A person who violates this section is responsible for a civil infraction.

**257.321 Surrender of license; replacement.**

Sec. 321. Upon suspending or revoking a license, the department shall require that the license be surrendered to and be destroyed by the department. At the end of the suspension period, the licensee may obtain a replacement license.

**257.321b Suspended or revoked license; destruction.**

Sec. 321b. Any policeman, law enforcing agent, or judicial officer who is informed by an official communication from the secretary of state that the secretary of state has suspended or revoked an operator's, moped, or chauffeur's license under the provisions of this act, shall obtain and destroy the suspended or revoked license.

**257.323c Restricted license; issuance by circuit court; limitations; exceptions; condition.**

Sec. 323c. (1) A person denied a license to operate a motor vehicle or whose license for that purpose has been suspended by the secretary of state under section 625f has a right

to a review of the matter in circuit court as provided in sections 323 and 323a. Except as provided in this section, the court may order the secretary of state to issue to the person a restricted license permitting the person to drive only to and from the person's residence and work location; in the course of the person's employment or occupation; to and from an alcohol or drug education program or treatment program as ordered by a court; to and from the person's residence and the court probation department, or a court-ordered community service program, or both; to and from the person's residence and an educational institution at which the person is enrolled as a student; or pursuant to a combination of these restrictions. If the denial, suspension, or revocation of a person's license or vehicle group designation under section 625f occurred in connection with the operation of a commercial motor vehicle, the court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle. The court shall not order the secretary of state to issue a restricted operator's or chauffeur's license that would permit a person to operate a commercial motor vehicle hauling hazardous material. The court shall not order the secretary of state to issue a restricted license unless the person states under oath and the court finds that the person is unable to take public transportation to and from his or her work location, place of alcohol or drug education or treatment, or educational institution, and does not have a family member or other person able to provide transportation. The court order and license shall indicate the person's work location and the approved route or routes and permitted times of travel. For purposes of this section, "work location" includes, as applicable, either or both of the following:

(a) The specific place or places of employment.

(b) The territory or territories regularly visited by the person in pursuance of the person's occupation.

(2) If the person's license has been suspended pursuant to section 625f within the immediately preceding 7-year period, a restricted license shall not be issued.

(3) Notwithstanding any other provision of this section, the court shall not issue a restricted license to a person who has accumulated over 24 points, as provided in section 320a, within the 2-year period preceding the date of the suspension of his or her license.

### **257.667 Stopping at railroad grade crossing; driving through, around, or under crossing gate or barrier; violation as civil infraction.**

Sec. 667. (1) When a person driving a vehicle approaches a railroad grade crossing under any of the following circumstances, the driver shall stop the vehicle not more than 50 feet but not less than 15 feet from the nearest rail of the railroad, and shall not proceed until the driver can do so safely:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.

(b) A crossing gate is lowered or a flagman gives or continues to give a signal of the approach or passage of a railroad train.

(c) A railroad train approaching within approximately 1,500 feet of the highway crossing gives a signal audible from that distance, and the train by reason of its speed or nearness to the crossing is an immediate hazard.

(d) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.

(2) A person shall not drive a vehicle through, around, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed or against the direction of a police officer.

(3) A person who violates this section is responsible for a civil infraction.

**257.667a Installation and use of unmanned traffic monitoring devices at railroad grade crossing; civil infraction; evidence; diagnostic review required where fatality at railroad grade crossing.**

Sec. 667a. (1) The department of state police or the state transportation department; the county board of commissioners, board of county road commissioners, or county sheriff; or other local authority having jurisdiction over a highway or street may authorize the installation and use of unmanned traffic monitoring devices at a railroad grade crossing with flashing signals and gates on a highway or street under their respective jurisdictions. Each device shall be sufficiently marked or identified or a sign shall be placed at the approach to the crossing indicating that the crossing is monitored by an unmanned traffic monitoring device.

(2) Beginning 31 days after the installation of an unmanned traffic monitoring device at a railroad grade crossing described in subsection (1), a person is responsible for a civil infraction as provided in section 667 if the person violates a provision of that section on the basis of evidence obtained from an unmanned traffic monitoring device. However, for the first 30 days after the installation of an unmanned traffic monitoring device, a person shall be issued a written warning only. It shall be an affirmative defense to a charge of violating section 667 that the mechanical warning devices at the crossing were malfunctioning.

(3) A sworn statement of a police officer from the state or local authority having jurisdiction over the highway or street upon which the railroad grade crossing described in subsection (1) is located, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by an unmanned traffic monitoring device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images indicating such a violation shall be available for inspection in any proceeding to adjudicate the responsibility for a violation of section 667. Any photographs, videotape, or digital images evidencing such a violation shall be destroyed 90 days after final disposition of the citation.

(4) In a prosecution for a violation of section 667 established by an unmanned traffic monitoring device under this section, prima facie evidence that the vehicle described in the citation issued was operated in violation of section 667, together with proof that the defendant was at the time of the violation the registered owner of the vehicle, shall constitute in evidence a rebuttable presumption that the registered owner of the vehicle was the person who committed the violation. The presumption is rebutted if the registered owner of the vehicle files an affidavit by regular mail with the clerk of the court that he or she was not the operator of the vehicle at the time of the alleged violation or testifies in open court under oath that he or she was not the operator of the vehicle at the time of the alleged violation. The presumption also is rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen before the time of the alleged violation of this section, is presented before the appearance date established on the citation. For purposes of this subsection, the owner of a leased or rental vehicle shall provide the name and address of the person to whom the vehicle was leased or rented at the time of the violation.

(5) Notwithstanding section 742, a citation for a violation of section 667 on the basis of evidence obtained from an unmanned traffic monitoring device may be executed by mailing by first-class mail a copy to the address of the owner of the vehicle as shown on

the records of the secretary of state. If the summoned person fails to appear on the date of return set out in the citation previously mailed by first-class mail pursuant to this subsection, a copy shall be sent by certified mail-return receipt requested. If the summoned person fails to appear on either of the dates of return set out in the copies of the citation mailed pursuant to this section, the citation shall be executed in the manner provided by law for personal service. The court may issue a warrant for the arrest of a person who fails to appear within the time limit established on the citation if a sworn complaint is filed with the court for that purpose.

(6) If there is a fatality at a railroad grade crossing in a city, village, or township with population of 60,000 or more, or in a county with population of 150,000 or more, the state transportation department shall undertake a diagnostic review, if there has not been a diagnostic review at the crossing in the last 2 years. The diagnostic review shall be scheduled within 120 days. If the diagnostic review confirms that warning devices such as flashing lights and gates are needed, the state transportation department shall order such improvements. The cost for the improvements shall be financed consistent with the financing of similar projects by the state transportation department according to its annual prioritization of grade crossing safety improvements.

**257.668 Designating certain grade crossings as “stop” crossings or “yield” crossings; signs; duties of driver; cost of yield sign installations; action for negligence; failure to stop or yield as civil infraction.**

Sec. 668. (1) The state transportation department with respect to highways under its jurisdiction, the county road commissions, and local authorities with reference to highways under their jurisdiction, may designate certain grade crossings of railways by highways as “stop” crossings, and erect signs at the crossings notifying drivers of vehicles upon the highway to come to a complete stop before crossing the railway tracks. When a crossing is so designated and signposted, the driver of a vehicle shall stop not more than 50 feet but not less than 15 feet from the railway tracks. The driver shall then traverse the crossing when it may be done in safety.

(2) The state transportation department with respect to highways under its jurisdiction, the county road commissions, and local authorities with reference to highways under their jurisdiction, may designate certain grade crossings of railways by highways as yield crossings, and erect signs at the crossings notifying drivers of vehicles upon the highway to yield. Yield signs may be mounted on the same post as is the cross-buck sign. Drivers of vehicles approaching a yield sign at the grade crossing of a railway shall maintain a reasonable speed based upon existing conditions and shall yield the right-of-way. The cost of yield sign installations shall be borne equally by the railroad and the governmental authority under whose jurisdiction the highway rests. The erection of or failure to erect, replace, or maintain a stop or yield sign or other railroad warning device, unless such devices or signs were ordered by public authority, shall not be a basis for an action of negligence against the state transportation department, county road commissions, the railroads, or local authorities.

(3) A person who fails to stop or yield as required by this section is responsible for a civil infraction.

**257.669 Certain vehicles to stop at railroad track grade crossing; driver to listen and look in both directions; shifting gears prohibited; exceptions; violation as civil infraction.**

Sec. 669. (1) Except as provided in subsections (2), (3), and (4), the driver of a motor vehicle transporting 16 or more passengers including the driver, a motor vehicle carrying

passengers for hire, or a motor vehicle that is required to be marked or placarded under 49 C.F.R. parts 100 to 180 before crossing a railroad track at grade, shall activate the vehicle hazard warning lights and stop the vehicle within 50 feet but not less than 15 feet from the nearest rail. While stopped, the driver shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely. After stopping as required in this subsection, and upon proceeding when it is safe to do so, the driver of the vehicle shall cross only in a gear of the vehicle that does not require changing gears while traversing the crossing. The driver shall not shift gears while crossing the track or tracks.

(2) A stop need not be made at a railroad track grade crossing where a police officer or a traffic-control signal directs traffic to proceed.

(3) A stop need not be made at an abandoned railroad track grade crossing. As used in this subsection, “abandoned railroad track” means a railroad track which meets all of the following requirements:

- (i) The track has been abandoned pursuant to federal law.
- (ii) The track has been covered or removed.
- (iii) All signs, signals, and other warning devices are removed.

(4) A stop shall not be made at an industrial or spur line railroad grade crossing marked with a sign reading “exempt”. Exempt signs may be erected only by or with the consent of the state transportation department after notice to and an opportunity to be heard by all railroads operating over that industrial or spur line.

(5) A person who violates this section is responsible for a civil infraction.

### **257.669a Federal motor carrier safety regulations; adoption; transportation of persons and property over railroad-highway grade crossings.**

Sec. 669a. (1) This state adopts motor carrier safety regulations 49 C.F.R. 392.10 and 392.11 on file with the office of the secretary of state, to provide for the safe transportation of persons and property over railroad-highway grade crossings with the intent of following the policies and procedures of the United States department of transportation’s federal motor carrier safety administration as they relate to title 49 of the code of federal regulations. For purposes of this subsection, “commercial motor vehicle” means that term as defined in section 7a.

(2) The driver of a commercial motor vehicle shall comply with a lawful order or direction of a police officer guiding, directing, controlling, or regulating traffic at a railroad-highway grade crossing.

(3) The driver of a commercial motor vehicle shall not cross a railroad-highway grade crossing unless the vehicle has sufficient undercarriage clearance.

(4) The driver of a commercial motor vehicle shall not cross a railroad-highway grade crossing unless the vehicle can be driven completely through the crossing without stopping.

(5) A person who violates this section is responsible for a civil infraction.

### **257.670 Operating or moving certain vehicles or equipment upon or across steam railroad tracks at grade level; notice of intended crossing; stopping, listening, and looking; warning; violation as civil infraction.**

Sec. 670. (1) A person shall not operate or move a caterpillar tractor, shovel, derrick, roller, boiler, machinery, or other structure or object upon rollers, or other equipment or



structure, which, because of its limited power, or weight, character, or load, has a normal operating speed of 4 miles per hour or less, or which has a vertical load or body clearance of less than 9 inches above the level surface of the roadway, upon or across the tracks of a railroad at grade level without first complying with this section, except this section shall not apply to the movement of electrically propelled cars on fixed rails or to their loads.

(2) Notice of the intended crossing described in subsection (1) shall be given to the nearest agent or officer of the railroad in time to afford protection to its locomotives, trains, or cars at the crossing.

(3) Before making the crossing, the person operating or moving the vehicle or equipment shall first stop not less than 15 feet or more than 50 feet from the nearest rail of the track and while stopped shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(4) A crossing shall not be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car.

(5) A person who violates this section is responsible for a civil infraction.

**257.732 Record of cases; forwarding abstract of record or report to secretary of state; statement; abstracts forwarded; noncompliance 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 (h). Except as provided in subsection (15), 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) Within 14 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), or (7) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), or (6) 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 and indorsement classification.
- (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 C.F.R. 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 C.F.R. 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.

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

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

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

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

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

(6) If a person is charged with a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, 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.”

(7) 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.”

(8) 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 (6) or (7) is a felony in which a motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.

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

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

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

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

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

(10) If a person is charged with a felony in which a commercial motor vehicle was used and for which a vehicle group designation on a license is subject to suspension or revocation under section 319b(1)(c)(iii), 319b(1)(d), 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.”

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

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

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

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

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

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

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

(15) Except for controlled substance offenses described in subsection (4), the court shall not submit, and the secretary of state shall discard and not enter on the master driving record, an abstract for a conviction 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.

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

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

(18) If a conviction 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.

(19) The secretary of state may permit a city or village department, bureau, person, or court to modify the requirement as to the time and manner of reporting a conviction, civil infraction determination, 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.

(20) 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.

**257.904 Operating vehicle if license, registration certificate, or designation suspended, revoked, or denied; penalty; extending period of suspension or revocation; informing court of record and status; applicability.**

Sec. 904. (1) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation, whose application for license has been denied, or who has never applied for a license, shall not operate a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this state.

(2) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this act.

(3) Except as otherwise provided in this section, a person who violates subsection (1) or (2) is guilty of a misdemeanor punishable as follows:

(a) For a first violation, by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be canceled by the secretary of state upon notification by a peace officer.

(b) For a violation that occurs after a prior conviction, by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both. Unless the vehicle was stolen, the registration plates of the vehicle shall be canceled by the secretary of state upon notification by a peace officer.

(4) A person who operates a motor vehicle in violation of subsection (1) and who, by operation of that motor vehicle, causes the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than \$2,500.00 or more than \$10,000.00, or both. This subsection does not apply to a person whose

operator's or chauffeur's license was suspended because that person failed to answer a citation or comply with an order or judgment pursuant to section 321a.

(5) A person who operates a motor vehicle in violation of subsection (1) and who, by operation of that motor vehicle, causes the serious impairment of a body function of another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. This subsection does not apply to a person whose operator's or chauffeur's license was suspended because that person failed to answer a citation or comply with an order or judgment pursuant to section 321a. As used in this subsection and subsection (7), "serious impairment of a body function" includes, but is not limited to, 1 or more of the following:

- (a) Loss of a limb or loss of use of a limb.
- (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
- (c) Loss of an eye or ear or loss of use of an eye or ear.
- (d) Loss or substantial impairment of a bodily function.
- (e) Serious visible disfigurement.
- (f) A comatose state that lasts for more than 3 days.
- (g) Measurable brain or mental impairment.
- (h) A skull fracture or other serious bone fracture.
- (i) Subdural hemorrhage or subdural hematoma.

(6) In addition to being subject to any other penalty provided for in this act, if a person is convicted under subsection (4) or (5), the court may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(7) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state, by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never been licensed except as permitted by this act. If a person permitted to operate a motor vehicle in violation of this subsection causes the serious impairment of a body function of another person by operation of that motor vehicle, the person knowingly permitting the operation of that motor vehicle is guilty of a felony punishable by imprisonment for not more than 2 years, or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. If a person permitted to operate a motor vehicle in violation of this subsection causes the death of another person by operation of that motor vehicle, the person knowingly permitting the operation of that motor vehicle is guilty of a felony punishable by imprisonment for not more than 5 years, or a fine of not less than \$1,000.00 or more than \$5,000.00, or both.

(8) If the prosecuting attorney intends to seek an enhanced sentence under this section based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information, or an amended complaint and information, filed in district court, circuit court, municipal court, or family division of circuit court, a statement listing the defendant's prior convictions.

(9) A prior conviction under this section shall be established at or before sentencing by 1 or more of the following:

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

(c) An admission by the defendant.

(10) Upon receiving a record of a person's conviction or civil infraction determination for the unlawful operation of a motor vehicle or a moving violation reportable under section 732 while the person's operator's or chauffeur's license is suspended or revoked, the secretary of state immediately shall impose an additional like period of suspension or revocation. This subsection applies only if the violation occurs during a suspension of definite length or if the violation occurs before the person is approved for a license following a revocation.

(11) Upon receiving a record of a person's conviction or civil infraction determination for the unlawful operation of a motor vehicle or a moving violation reportable under section 732 while the person's operator's or chauffeur's license is indefinitely suspended or whose application for a license has been denied, the secretary of state immediately shall impose a 30-day period of suspension or denial.

(12) Upon receiving a record of the conviction, bond forfeiture, or a civil infraction determination of a person for unlawful operation of a motor vehicle requiring a vehicle group designation while the designation is suspended or revoked pursuant to section 319b, or while the person is disqualified from operating a commercial motor vehicle under chapter 313 of title 49 of the United States Code, 49 U.S.C. 31301 to 31317, the secretary of state immediately shall impose an additional like period of suspension or revocation. This subsection applies only if the violation occurs during a suspension of definite length or if the violation occurs before the person is approved for a license following a revocation.

(13) If the secretary of state receives records of more than 1 conviction or civil infraction determination resulting from the same incident, all of the convictions or civil infraction determinations shall be treated as a single violation for purposes of imposing an additional period of suspension or revocation under subsection (10), (11), or (12).

(14) Before a person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the person's driving record from the secretary of state and shall furnish the record to the court. The driving record of the person may be obtained from the secretary of state's computer information network.

(15) This section does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property if the life or property is endangered and summoning prompt aid is essential.

(16) A person whose vehicle group designation is suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation, or whose application for a vehicle group designation has been denied as provided in this act, or who has never applied for a vehicle group designation and who operates a commercial motor vehicle within this state, except as permitted under this act, while any of those conditions exist is guilty of a misdemeanor punishable, except as otherwise provided in this section, by imprisonment for not less than 3 days or more than 93 days or a fine of not more than \$100.00, or both.

(17) If a person has a second or subsequent suspension or revocation under this section within 7 years as indicated on the person's Michigan driving record, the court shall proceed as provided in section 904d.

(18) Any period of suspension or revocation required under subsection (10), (11), or (12) does not apply to a person who has only 1 currently effective suspension or denial on his or her Michigan driving record under section 321a and was convicted of or received a

civil infraction determination for a violation that occurred during that suspension or denial. This subsection may only be applied once during the person's lifetime.

(19) For purposes of this section, a person who never applied for a license includes a person who applied for a license, was denied, and never applied again.

**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, which 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, district court referee, 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 \$50.00 or more than \$100.00. For a violation of section 328 or 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. 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, district court referee, 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. Except in a civil infraction for a parking violation, costs of not less than \$5.00 shall be ordered. 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), the judge, district court referee, or district court magistrate may order the person to attend and complete a program of treatment, education, or rehabilitation.



(6) A district court referee or 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 and costs to be imposed for civil infractions which 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 which 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, district court referees, 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 and costs, 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 an installment of the fine or costs 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 or cost 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) In addition to any fines and costs ordered to be paid under this section, the judge, district court referee, 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. Upon payment of the assessment, the clerk of the court shall transmit the assessment levied to the state treasury to be deposited into the Michigan justice training fund. An assessment levied under this subsection is not a civil fine for purposes of section 909.

(14) If a person has received a citation for a violation of section 223, the court shall waive any fine and costs, 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.

### **Repeal of §§ 257.57c and 257.319a.**

Enacting section 1. Sections 57c and 319a of the Michigan vehicle code, 1949 PA 300, MCL 257.57c and 257.319a, are repealed.

**Effective date.**

Enacting section 2. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.

Approved July 25, 2002.

Filed with Secretary of State July 26, 2002.

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**[No. 535]****(SB 1094)**

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 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 section 720 (MCL 257.720), as amended by 1996 PA 136.

*The People of the State of Michigan enact:*

**257.720 Construction or loading of vehicles to prevent contents from escaping; exception; closing tailgates, faucets, and taps; exemption; proof of violation; loading of vehicles not completely enclosed; prima facie liability; conditions for carrying logs or tubular products; exceptions; front end loading device; violation; penalty; definitions.**

Sec. 720. (1) A person shall not drive or move a vehicle on a highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, blowing off, or otherwise escaping from the vehicle. This requirement does not apply to a vehicle transporting agricultural or horticultural products when hay, straw, silage, or residue from a product, but not including the product itself, or when materials such as water used to preserve and handle agricultural or horticultural products while in transportation, escape from the vehicle in an amount that does not interfere with other traffic on the highway. The tailgate, faucets, and taps on a vehicle shall be securely closed to prevent spillage during transportation whether the vehicle is loaded or empty, and the vehicle shall not have any holes or cracks through which material can escape. Any highway maintenance vehicle engaged in either ice or snow removal shall be exempt from this section.

(2) Actual spillage of material on the highway or proof of that spillage is not necessary to prove a violation of this section.

(3) A vehicle carrying a load, other than logs or tubular products, which is not completely enclosed shall meet either of the following requirements:

(a) Have the load covered with firmly secured canvas or a similar type of covering. A device used to comply with the requirement of this subdivision shall not exceed a width of 108 inches nor by design or use have the capability to carry cargo by itself.

(b) Have the load securely fastened to the body or the frame of the vehicle with binders of adequate number and of adequate breaking strength to prevent the dropping off or shifting of the load.

(4) A company or individual who loads or unloads a vehicle or causes it to be loaded or unloaded, with knowledge that it is to be driven on a public highway, in a manner so as to cause a violation of subsection (1) shall be prima facie liable for a violation of this section.

(5) A person shall not operate a motor vehicle carrying logs or tubular products on a highway unless the following conditions are met:

(a) If the logs or tubular products are loaded crosswise or at right angles to the side of the vehicle, the load of logs or tubular products shall be securely fastened to the body or frame of the vehicle with not less than 2 binders which are secured to the frame at each end of the load and pass over the load so that the frame and binders completely encircle the load.

(b) If the vehicle is a truck or trailer carrying logs which has a loading surface more than 33 feet in length and the logs are loaded crosswise or at right angles to the side of the vehicle, the vehicle shall be equipped with a center partition located approximately 1/2 the distance from the front to the rear of the loading surface of the truck or trailer. The center partition shall be either a center mounted hydraulic loader or a center set of stakes and shall be pinned, bolted, or otherwise securely fastened to the frame. The load shall be secured as required by subdivision (a) and, in addition, the 2 lengthwise tie downs shall be attached or threaded through the center partition at a level not less than 1 foot below the load height.

(c) If the logs or tubular products are loaded lengthwise of the vehicle, obliquely or parallel to the sides, with metal stakes and pockets, the load of logs or tubular products shall be secured as follows:

(i) With 2 tie downs from frame to frame for every tier.

(ii) So that not more than 1/2 the diameter of the top log or tubular product extends higher than the stake tops.

(iii) With 2 cross chains per tier if the load extends more than 5 feet above the loading surface.

(iv) So that every 10 linear feet has not less than 1 tie down from frame to frame.

(d) If the logs or tubular products are loaded lengthwise of the vehicle, obliquely or parallel to the sides, with permanent metal gusseted bunks, the load of logs or tubular products shall be secured as follows:

(i) With 2 tie downs from frame to frame for every tier.

(ii) So that not more than 1/2 the diameter of the top log extends higher than the stake tops.

(iii) So that every 10 linear feet has not less than 1 tie down from frame to frame.

(e) The tie downs, cross chains, stakes, and other materials used to secure loads of logs or tubular products as required under subdivisions (a) to (d) shall meet the following minimum requirements:

(i) Chain shall be of steel and shall be of a strength not less than 5/16 inch in diameter “transport”, which is embossed with a grade stamp representative of grade 70, or not less than 3/8 inch in diameter “high test”, which is embossed with a grade stamp representative of grade 40. Chain shall not be repaired by welding, wire, or cold shuts.

(ii) Wire rope shall be of improved plow steel and not less than 3/8 inch in diameter.

(iii) Webbing strap shall be not less than 3 inches in width and shall have a minimum breaking strength of 14,000 pounds.

(iv) Metal stakes shall be of sufficient strength to hold and contain the load.

(v) Connecting links and hooks shall be at least as strong as the tie down material used.

(6) Subsection (3) shall not apply to a person operating a vehicle to transport agricultural commodities or to a person operating a farm truck or implement of husbandry transporting sand, gravel, and dirt necessary in the normal operation of a farm. However, a person operating a vehicle to transport agricultural commodities or sand, gravel, and dirt in the normal operation of the farm who violates subsection (1) or (4) is guilty of a misdemeanor and is subject to the penalties prescribed in subsection (10).

(7) Subsection (3)(a) shall not apply to a motor vehicle transporting items of a load which because of their weight will not fall off the moving vehicle and which have their centers of gravity located at least 6 inches below the top of the enclosure nor to a motor vehicle carrying metal which because of its weight and density is so loaded as to prevent it from dropping or falling off the moving vehicle.

(8) Subsection (3)(a) shall not apply to motor vehicles and other equipment engaged in work upon the surface of a highway or street in a designated work area.

(9) A person shall not drive or move on a highway a vehicle equipped with a front end loading device with a tine protruding parallel to the highway beyond the front bumper of the vehicle unless the tine is carrying a load designed to be carried by the front end loading device. This subsection does not apply to a vehicle designed to be used or being used to transport agricultural commodities, to a vehicle en route to a repair facility, or to a vehicle engaged in construction activity. As used in this subsection, “agricultural commodities” means that term as defined in section 722.

(10) A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 90 days, or both.

(11) As used in this section:

(a) “Cross chain” means a chain which extends through the load of logs or tubular products and is connected at each end to a side stake.

(b) “Logs” means sawlogs, pulpwood, or tree length poles.

(c) “Tie down” means a high strength material which is used to secure the load of logs or tubular products to the frame or the bed of the vehicle.

(d) “Tier” means a vertical pile or stack of logs or tubular products.

This act is ordered to take immediate effect.

Approved July 25, 2002.

Filed with Secretary of State July 26, 2002.

**[No. 536]****(SB 809)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 231 (MCL 750.231), as amended by 1998 PA 510.

*The People of the State of Michigan enact:*

**750.231 Sections 750.224, 750.224a, 750.224b, 750.226a, 750.227, 750.227c, and 750.227d inapplicable to certain persons and organizations.**

Sec. 231. (1) Except as provided in subsection (2), sections 224, 224a, 224b, 226a, 227, 227c, and 227d do not apply to any of the following:

(a) A peace officer of an authorized police agency of the United States, of this state, or of a political subdivision of this state, who is regularly employed and paid by the United States, this state, or a political subdivision of this state.

(b) A person who is regularly employed by the state department of corrections and who is authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

(c) A person employed by a private vendor that operates a youth correctional facility authorized under section 20g of 1953 PA 232, MCL 791.220g, who meets the same criteria established by the director of the state department of corrections for departmental employees described in subdivision (b) and who is authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

(d) A member of the United States army, air force, navy, or marine corps or the United States coast guard while carrying weapons in the line of or incidental to duty.

(e) An organization authorized by law to purchase or receive weapons from the United States or from this state.

(f) A member of the national guard, armed forces reserve, the United States coast guard reserve, or any other authorized military organization while on duty or drill, or in going to or returning from a place of assembly or practice, while carrying weapons used for a purpose of the national guard, armed forces reserve, United States coast guard reserve, or other duly authorized military organization.

(2) As applied to section 224a(1) only, subsection (1) is not applicable to an individual included under subsection (1)(a), (b), or (c) unless he or she has been trained on the use, effects, and risks of using a portable device or weapon described in section 224a(1).

This act is ordered to take immediate effect.

Approved July 25, 2002.

Filed with Secretary of State July 26, 2002.

**[No. 537]****(SB 926)**

AN ACT to amend 1999 PA 94, entitled “An act to create the Michigan merit award scholarship trust fund; to create the Michigan merit award scholarship board and prescribe the powers and duties of the board; and to provide for the Michigan merit award scholarship program,” by amending sections 6, 7, and 8 (MCL 390.1456, 390.1457, and 390.1458).

*The People of the State of Michigan enact:*

**390.1456 Conduct of business; compliance with open meetings act; availability of writings; availability of questions and answers; report on activities; changes of results, scores, or ranges.**

Sec. 6. (1) The board shall conduct business in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall give public notice of the time, date, and place of meetings of the board in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) The board shall meet not less than annually and shall keep a record of its proceedings. The board shall make any writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) Except as provided in subsection (4), the board shall obtain and make available to the public all of the qualifying questions and answers, along with the corresponding answer key, to assessment tests administered during the spring of the preceding school year not later than September 1.

(4) If any question will be used in a future assessment test for validity purposes, the board may elect not to make that question and the answer available to the public under subsection (3) for a period of up to 2 years from the date the assessment test that first includes the question is administered.

(5) By December 1 of each year, the board shall submit a report on its activities to the governor and to the legislature. The report shall contain all of the following information:

(a) A list of approved postsecondary educational institutions for the current and immediately preceding fiscal years.

(b) The number of Michigan merit award scholarships awarded and the total amount of Michigan merit award scholarship money paid in the immediately preceding fiscal year.

(c) A projection of revenues and expenditures from the trust fund for the current fiscal year and the next 10 fiscal years.

(d) The dollar amount of the Michigan merit award scholarships available under section 7(2) and (3) in the current fiscal year, the amount of any adjustments to the dollar amount under section 7(5) from the beginning of the immediately preceding fiscal year, and any adjustments to the dollar amount projected for the remainder of the current fiscal year or for the next fiscal year.

(e) All of the following results, scores, or ranges of scores:

(i) Used as qualifying results in the immediately preceding fiscal year.

(ii) Determined by the board as qualifying results in the current fiscal year.

(iii) Projected by the board as qualifying results for the next fiscal year.

(f) For the immediately preceding fiscal year, the number of students who took the assessment tests, the number of students by subject area who received qualifying results, the number of graduating high school seniors who met the requirements for a Michigan merit award scholarship, and the total number of students who met the requirements for a Michigan merit award scholarship.

(g) The number of persons participating in and the amount awarded in the immediately preceding fiscal year under the tuition incentive program described in section 310 of 2002 PA 144 or a successor to that program.

(6) At least 60 days before changing the results, scores, or ranges of scores used as qualifying results, the board shall provide written notice of its intent to change the results, scores, or ranges of scores used as qualifying results, and a report explaining the board's decision to change the results, scores, or ranges of scores used as qualifying results, to the standing committees of the senate and the house of representatives that have primary jurisdiction over legislation pertaining to education. The standing committees shall review the board's report and may hold hearings on the board's decision.

**390.1457 Michigan merit award scholarship program; establishment; administration; eligibility of students for award; requirements; adjustment of available amount; review and approval of assessment test; intent of legislature; additional award; failure to initially achieve qualifying results; nonpublic or home school student.**

Sec. 7. (1) The Michigan merit award scholarship program is established. The board shall administer the Michigan merit award scholarship program.

(2) Subject to subsection (6), each student enrolled in grade 11 in or after the 1998-1999 school year who meets the requirements of subsection (4), and subject to adjustment under subsection (5), is eligible for the award of a \$2,500.00 Michigan merit award scholarship if the student is enrolled in an approved postsecondary educational institution in this state or the award of a \$1,000.00 Michigan merit award scholarship if the student is enrolled in an approved postsecondary educational institution outside this state if the board finds that the student while in high school has taken the assessment test in the subject areas of reading, writing, mathematics, and science and meets 1 of the following:

(a) Has received qualifying results in each of the subject areas of reading, writing, mathematics, and science.

(b) Did not receive qualifying results in 1 or 2 of the subject areas of reading, writing, mathematics, and science, but received an overall score in the top 25% of a nationally recognized college admission examination.

(c) Did not receive qualifying results in 1 or 2 of the subject areas of reading, writing, mathematics, and science, but received a qualifying score or scores as determined by the board on a nationally recognized job skills assessment test designated by the board.

(3) Subject to subsection (6) and to adjustment under subsection (5), a student who was enrolled in grade 7 in or after the 1999-2000 school year and who the board finds has taken the assessment test in each of the subject areas while in grades 7 and 8 is eligible for 1 of the following additional Michigan merit award scholarships:

(a) If the board finds that the student while in grades 7 and 8 received qualifying results in 2 of the subject areas of reading, writing, mathematics, and science, an additional Michigan merit award scholarship of \$250.00.

(b) If the board finds that the student while in grades 7 and 8 received qualifying results in 3 of the subject areas of reading, writing, mathematics, and science, an additional Michigan merit award scholarship of \$375.00.

(c) If the board finds that the student while in grades 7 and 8 received qualifying results in all of the subject areas of reading, writing, mathematics, and science, an additional Michigan merit award scholarship of \$500.00.

(4) In addition to the requirements set forth in subsections (2) and (3), to be eligible for the award of 1 or both Michigan merit award scholarships under this section, the board must find that a student satisfies all of the following:

(a) The student has graduated from high school or passed the general educational development (GED) test or other graduate equivalency examination approved by the state board.

(b) The student graduated from high school or passed the general educational development (GED) test or other graduate equivalency examination approved by the state board within 1 of the following time periods:

(i) If the student graduated from high school or passed the test or examination before March 1, 2002, within the 7-year period preceding the student's application to receive his or her Michigan merit award scholarship money.

(ii) If the student graduated on or after March 1, 2002, within the 4-year period preceding the date of the student's application to receive his or her Michigan merit award scholarship money, or if the student becomes a member of the United States armed forces or peace corps during this 4-year period and serves for 4 years or less, the 4-year period is extended by a period equal to the number of days the student served as a member of the United States armed forces or peace corps. The board may also extend the 4-year period if the board determines that an extension is warranted because of an illness or disability of the student or in the student's immediate family or another family emergency.

(c) The student is enrolled in an approved postsecondary educational institution. For students who qualify under subsection (2)(c), the student is enrolled in a vocational or technical education program at an approved postsecondary educational institution.

(d) The student has not been convicted of a felony involving an assault, physical injury, or death.

(e) The student satisfies any additional eligibility requirements established by the board.

(5) In any fiscal year, the board may adjust the amount of a Michigan merit award scholarship available to students eligible under 1 or more of subsections (2), (3), and (9), based upon its determination of available resources and amounts appropriated, but the board shall not increase an amount by more than 5% in any fiscal year. The board shall notify the governor, the speaker of the house of representatives, and the majority leader of the senate in writing at least 30 days before an adjustment under this subsection.

(6) For assessment tests administered after January 1, 2000, the board shall not use the assessment test to determine eligibility for a Michigan merit award scholarship under this section for a particular year unless the board has reviewed and approved the assessment test before it was administered for that year.

(7) The board shall provide each student written notice of whether or not the student is eligible for the award of 1 or more Michigan merit award scholarships described in this section. If the student is eligible, the written notice shall also contain the Michigan merit award scholarship amount for which the student is eligible, how the student applies for payment of Michigan merit award scholarship, and any other information the board considers necessary regarding qualification requirements or conditions relating to the use of the Michigan merit award scholarship.



(8) It is the intent of the legislature that the level of student performance required to achieve qualifying results in a subject area of an assessment test remains approximately the same, and that the board not reduce the required level of student performance as a means of increasing the number of Michigan merit award scholarships awarded.

(9) If a student who has previously received a \$1,000.00 Michigan merit award scholarship as a student enrolled in an approved postsecondary educational institution outside of this state enrolls in an approved postsecondary educational institution in this state and meets the requirements of subsection (4), and subject to adjustment under subsection (5), the student is eligible for the award of an additional \$1,500.00 Michigan merit award scholarship.

(10) A pupil who does not initially receive qualifying results shall be extended an opportunity to achieve the requisite qualifying results by taking a subsequent assessment test.

(11) A nonpublic school student or home school student may take, and the board shall administer if requested, an assessment test at a site designated by the board.

**390.1458 Scholarship; use; payment; consideration in determining financial aid program; certification or affirmation by student; request or application for payment.**

Sec. 8. (1) A Michigan merit award scholarship shall be used only to pay for eligible costs. The board shall determine the manner and form of application for payment of a Michigan merit award scholarship by a student eligible under section 7 and the procedure for payment to the student or to the approved postsecondary educational institution on the student's behalf. As determined by the board, upon the request of a student or parent or legal guardian of a minor student, the board may pay a Michigan merit award scholarship in 2 consecutive annual installments rather than 1 lump sum.

(2) An approved postsecondary educational institution shall not consider a Michigan merit award scholarship in determining a student's eligibility for a financial aid program administered by this state. It is the intent of the legislature that an approved postsecondary educational institution not reduce institutionally-funded student aid because of the Michigan merit award scholarship program.

(3) Before payment of a Michigan merit award scholarship to a student or approved postsecondary educational institution, the student shall certify or affirm in writing to the board each of the following:

- (a) That the student is enrolled at an approved postsecondary educational institution.
- (b) The name of the approved postsecondary educational institution in which the student is enrolled.
- (c) That the student agrees to use the Michigan merit award scholarship only for eligible costs.
- (d) That the student has not been convicted of a felony involving an assault, physical injury, or death.
- (e) That the student graduated from high school or passed the general educational development (GED) test or approved graduate equivalency examination within 1 of the following time periods:

(i) If the student graduated from high school or passed the test or examination before March 1, 2002, within the 7-year period preceding the date of the student's application to receive his or her Michigan merit award scholarship.

(ii) If the student graduated on or after March 1, 2002, within the 4-year period preceding the date of the student's application to receive his or her Michigan merit award scholarship, or within a period equal to 4 years plus the number of days the student served as a member of the United States armed forces or peace corps if the student became a member of the United States armed forces or peace corps during this 4-year period and served for 4 years or less. The board may also extend the 4-year period if the board determines that an extension is warranted because of an illness or disability of the student or in the student's immediate family or another family emergency.

(4) The board shall not disburse funds for a Michigan merit award scholarship to a student or an approved postsecondary educational institution on behalf of the student for use in any academic year unless it receives the request or application for payment, including the written certification or affirmation described in this section, from the student on or before September 30 in that academic year.

This act is ordered to take immediate effect.

Approved July 25, 2002.

Filed with Secretary of State July 26, 2002.

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**[No. 538]**

**(SB 1241)**

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation

self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act,” (MCL 500.100 to 500.8302) by adding section 3406q.

*The People of the State of Michigan enact:*

**500.3406q Off-label use of approved drug; coverage; conditions; compliance; use of copayment, deductible, sanction, or utilization control; limitation; definitions.**

Sec. 3406q. (1) An expense-incurred hospital, medical, or surgical policy or certificate delivered, issued for delivery, or renewed in this state that provides pharmaceutical coverage and a health maintenance organization contract shall provide coverage for an off-label use of a federal food and drug administration approved drug and the reasonable cost of supplies medically necessary to administer the drug.

(2) Coverage for a drug under subsection (1) applies if all of the following conditions are met:

(a) The drug is approved by the federal food and drug administration.

(b) The drug is prescribed by an allopathic or osteopathic physician for the treatment of either of the following:

(i) A life-threatening condition so long as the drug is medically necessary to treat that condition and the drug is on the plan formulary or accessible through the health plan's formulary procedures.

(ii) A chronic and seriously debilitating condition so long as the drug is medically necessary to treat that condition and the drug is on the plan formulary or accessible through the health plan's formulary procedures.

(c) The drug has been recognized for treatment for the condition for which it is prescribed by 1 of the following:

(i) The American medical association drug evaluations.

(ii) The American hospital formulary service drug information.

(iii) The United States pharmacopoeia dispensing information, volume 1, “drug information for the health care professional”.

(iv) Two articles from major peer-reviewed medical journals that present data supporting the proposed off-label use or uses as generally safe and effective unless there is clear and convincing contradictory evidence presented in a major peer-reviewed medical journal.

(3) Upon request, the prescribing allopathic or osteopathic physician shall supply to the insurer or health maintenance organization documentation supporting compliance with subsection (2).

(4) This section does not prohibit the use of a copayment, deductible, sanction, or a mechanism for appropriately controlling the utilization of a drug that is prescribed for a use different from the use for which the drug has been approved by the food and drug administration. This may include prior approval or a drug utilization review program. Any copayment, deductible, sanction, prior approval, drug utilization review program, or mechanism described in this subsection shall not be more restrictive than for prescription coverage generally.

(5) As used in this section:

(a) “Chronic and seriously debilitating” means a disease or condition that requires ongoing treatment to maintain remission or prevent deterioration and that causes significant long-term morbidity.

(b) “Life-threatening” means a disease or condition where the likelihood of death is high unless the course of the disease is interrupted or that has a potentially fatal outcome where the end point of clinical intervention is survival.

(c) “Off-label” means the use of a drug for clinical indications other than those stated in the labeling approved by the federal food and drug administration.

### **Effective date.**

Enacting section 1. This amendatory act takes effect 180 days after the date this amendatory act is enacted.

This act is ordered to take immediate effect.

Approved July 25, 2002.

Filed with Secretary of State July 26, 2002.

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**[No. 539]**

**(SB 1242)**

AN ACT to amend 1980 PA 350, entitled “An act to provide for the incorporation of nonprofit health care corporations; to provide their rights, powers, and immunities; to prescribe the powers and duties of certain state officers relative to the exercise of those rights, powers, and immunities; to prescribe certain conditions for the transaction of business by those corporations in this state; to define the relationship of health care providers to nonprofit health care corporations and to specify their rights, powers, and immunities with respect thereto; to provide for a Michigan caring program; to provide for the regulation and supervision of nonprofit health care corporations by the commissioner of insurance; to prescribe powers and duties of certain other state officers with respect to the regulation and supervision of nonprofit health care corporations; to provide for the imposition of a regulatory fee; to regulate the merger or consolidation of certain corporations; to prescribe an expeditious and effective procedure for the maintenance and conduct of certain administrative appeals relative to provider class plans; to provide for certain administrative hearings relative to rates for health care benefits; to provide for certain causes of action; to prescribe penalties and to provide civil fines for violations of this act; and to repeal certain acts and parts of acts,” (MCL 550.1101 to 550.1704) by adding section 416c.

*The People of the State of Michigan enact:*

**550.1416c Off-label use of approved drug; coverage; conditions; compliance; use of copayment, deductible, sanction, or utilization control; limitation; definitions.**

Sec. 416c. (1) A health care corporation group or nongroup certificate that provides pharmaceutical coverage shall provide coverage for an off-label use of a federal food and drug administration approved drug and the reasonable cost of supplies medically necessary to administer the drug.

(2) Coverage for a drug under subsection (1) applies if all of the following conditions are met:

(a) The drug is approved by the federal food and drug administration.

(b) The drug is prescribed by an allopathic or osteopathic physician for the treatment of either of the following:

(i) A life-threatening condition so long as the drug is medically necessary to treat that condition and the drug is on the plan formulary or accessible through the health plan's formulary procedures.

(ii) A chronic and seriously debilitating condition so long as the drug is medically necessary to treat that condition and the drug is on the plan formulary or accessible through the health plan's formulary procedures.

(c) The drug has been recognized for treatment for the condition for which it is prescribed by 1 of the following:

(i) The American medical association drug evaluations.

(ii) The American hospital formulary service drug information.

(iii) The United States pharmacopoeia dispensing information, volume 1, "drug information for the health care professional".

(iv) Two articles from major peer-reviewed medical journals that present data supporting the proposed off-label use or uses as generally safe and effective unless there is clear and convincing contradictory evidence presented in a major peer-reviewed medical journal.

(3) Upon request, the prescribing allopathic or osteopathic physician shall supply to the health care corporation documentation supporting compliance with subsection (2).

(4) This section does not prohibit the use of a copayment, deductible, sanction, or a mechanism for appropriately controlling the utilization of a drug that is prescribed for a use different from the use for which the drug has been approved by the food and drug administration. This may include prior approval or a drug utilization review program. Any copayment, deductible, sanction, prior approval, drug utilization review program, or mechanism described in this subsection shall not be more restrictive than for prescription coverage generally.

(5) As used in this section:

(a) "Chronic and seriously debilitating" means a disease or condition that requires ongoing treatment to maintain remission or prevent deterioration and that causes significant long-term morbidity.

(b) "Life-threatening" means a disease or condition where the likelihood of death is high unless the course of the disease is interrupted or that has a potentially fatal outcome where the end point of clinical intervention is survival.

(c) “Off-label” means the use of a drug for clinical indications other than those stated in the labeling approved by the federal food and drug administration.

**Effective date.**

Enacting section 1. This amendatory act takes effect 180 days after the date this amendatory act is enacted.

This act is ordered to take immediate effect.

Approved July 25, 2002.

Filed with Secretary of State July 26, 2002.

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**[No. 540]**

**(HB 5336)**

AN ACT to amend 1989 PA 24, entitled “An act to provide for the establishment and maintenance of district libraries; to provide for district library boards; to define the powers and duties of certain state and local governmental entities; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 6, 12, 14, and 25 (MCL 397.176, 397.182, 397.184, and 397.195) and by adding section 25a.

*The People of the State of Michigan enact:*

**397.176 Organizational plan; revision of board structure and selection.**

Sec. 6. Within 1 year after May 22, 1989, the board of a district library established pursuant to former 1955 PA 164 shall submit to the state librarian an organizational plan including the information required to be set forth in an agreement under section 4(1) and shall revise the board structure and selection to conform to section 9 or to sections 10 and 11. If the board of a district library established pursuant to former 1955 PA 164 complies with this section and the state librarian does not disapprove the revision of board structure and selection, the district library shall be considered to be established pursuant to this act.

**397.182 Powers of board; compensation and expenses of board members; deposit and expenditure of money in district library fund.**

Sec. 12. (1) A board may do 1 or more of the following:

- (a) Establish, maintain, and operate a public library for the district.
- (b) Appoint and remove officers from among its members.
- (c) Appoint and remove a librarian and necessary assistants and fix their compensation.
- (d) Acquire real or personal property for use for library purposes by purchase, land contract, installment purchase contract, lease with or without option to purchase, or title retaining contract.
- (e) Erect buildings.
- (f) Supervise and control district library property.
- (g) Enter into a contract to receive library-related service from or give library-related service to a library or a municipality within or without the district.

(h) Adopt bylaws and regulations, not inconsistent with this act, governing the board and the district library.

(i) Propose and levy upon approval of the electors as provided in this act a tax for support of the district library.

(j) Borrow money pursuant to the district library financing act, 1988 PA 265, MCL 397.281 to 397.290.

(k) Issue bonds pursuant to the district library financing act, 1988 PA 265, MCL 397.281 to 397.290.

(l) Accept gifts and grants for the district library.

(m) Do any other thing necessary for conducting the district library service, the cost of which shall be charged against the district library fund.

(2) A board may reimburse a board member for necessary expenses that the member incurs in the performance of official duties. A board may compensate board members for attending meetings of the board and shall include the amount of compensation in the annual budget. Compensation shall not exceed \$30.00 per board member per meeting. A board member shall not be compensated for attending more than 52 meetings per year.

(3) Money for the district library shall be paid to the board and deposited in a fund known as the district library fund. The board shall exclusively control the expenditure of money deposited in the district library fund.

### **397.184 Provisions governing elections.**

Sec. 14. (1) An election for or recall of board members and an election for a districtwide tax shall be conducted under the provisions of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, and applicable provisions of the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, except to the extent that those provisions are inconsistent with the provisions of this act.

(2) If none of the participating municipalities are school districts, an election for a districtwide tax is governed by sections 15 to 18 and section 23. If 1 or more of the participating municipalities are school districts, an election for a districtwide tax is governed by section 15 and sections 19 to 23.

(3) If none of the participating municipalities are school districts, an election for district library board members is governed by sections 16 to 18 and section 23. If 1 or more of the participating municipalities are school districts, an election for district library board members is governed by sections 19 to 23.

### **397.195 Municipality other than school district as party to existing agreement; requirements; acceptance conditioned on authorization of tax; change in number of mills based on district library agreement.**

Sec. 25. (1) A municipality other than a school district may become a party to an existing agreement if the agreement's requirements concerning the addition of a participating municipality are satisfied, or, in the absence of requirements in the agreement, if each of the following requirements is satisfied:

(a) The legislative body of the municipality resolves by majority vote that the municipality become a participating municipality and that all or, pursuant to section 3(2), a portion of the territory of the municipality be added to the district.

(b) The resolution is conditioned upon the board's adopting, within a period of time specified in the resolution, amendments to the agreement specified in the resolution. The amendments specified shall reflect the addition of the municipality or of the territory to the district and shall include, but need not be limited to, changes in board representation

or the percentage of funds necessary for the establishment and operation of the district library to be supplied by each participating municipality after the municipality becomes a party to the agreement.

(c) The board amends the agreement within the time and in the manner specified in the resolution of the legislative body of the municipality. Notwithstanding anything to the contrary in the procedure for amending the agreement set forth in the agreement pursuant to section 4, the amendment shall be made by majority vote of the members of the board elected or appointed and serving.

(2) If there is a districtwide library tax, the board shall condition acceptance of the municipality or portion of the territory of the municipality into the district on the authorization of that tax by a majority of the electors of the municipality or portion of the territory of the municipality voting on the proposal.

(3) Notwithstanding section 13 or a districtwide tax or taxes authorized by section 13, an existing district library agreement may change the number of mills authorized in the existing district library agreement if 1 or more municipalities or parts of municipalities join the existing district library district. The change of the number of mills to be levied in the district library district shall be contingent on the approval by a majority of the voters of the existing district library district voting on the question and on the approval of a majority of the voters of each municipality or part of a municipality seeking to join the existing library district voting on the question. Defeat of the proposal submitted to the electors of the existing district library district shall not have any effect on the validity of the continued levy by the existing district library of previously authorized millage.

### **397.195a Consolidated district library agreement.**

Sec. 25a. (1) A county, having a population of at least 400,000 and not more than 500,000 on the date the amendatory act that added this section became effective, and 1 or more other participating municipalities may jointly establish a consolidated district library if each of the following requirements is satisfied:

(a) The consolidated district library is a consolidation of 2 or more district libraries each of which has been established, under this act, and includes all of the district of each district library included in the consolidated district library, and the district of each included district library is located wholly within the county joining in establishing the consolidated district library.

(b) The legislative body of each participating municipality identified in the agreement for the consolidated district library adopts a resolution providing for establishment of the consolidated district library and approving a consolidated district library agreement.

(c) The participating municipalities in the consolidated district library include at least 1 participating municipality from each of the district libraries included in the consolidated district library. The county may be the required participating municipality for any included district library if the county is a participating municipality of that district library.

(d) Establishment of the consolidated district library is approved by a majority of the electors of the district of each district library included in the consolidated district library, and by a majority of the electors of each participating municipality in a district library included in the consolidated district library, in which municipality a district library tax is levied by that municipality or is authorized to be levied by the municipality.

(2) Except as otherwise provided by this section, a consolidated district library agreement shall comply with section 4. A consolidated district library agreement may contain the provision authorized by section 4(2), and, if it does include such a provision, the agreement shall comply with the requirements of section 4(2).



(3) A consolidated district library agreement shall specify an establishment date for the consolidated district library and, as to each district library being consolidated into the consolidated district library, a date on which, if the consolidated district library has been established, the district library being consolidated into the consolidated district library will cease providing library services. The specified establishment date for the consolidated district library may be the date on which the electors approve the establishment of the consolidated district library as prescribed in subsection (1)(d).

(4) The board of commissioners of a county proposing to join in establishing a consolidated district library, on behalf of the participating municipalities proposing to establish that consolidated district library, shall file the consolidated district library agreement with the state librarian, and shall otherwise comply with section 3(5). For purposes of section 3(6), (7), and (8), and section 5, the filed consolidated district library agreement is considered to be an agreement described in section 4 if filed in accordance with section 3(5) and section 5(1).

(5) Subject to subsection (1), a consolidated district library is established the later of either of the following:

(a) The establishment date specified in the consolidated district library agreement.

(b) The earlier of the date on which the county board of commissioners receives notice of the state librarian's approval of the agreement, or the expiration of 30 days following the date on which the state librarian receives the agreement, without the state librarian having sent a written statement of approval or disapproval.

(6) On the date specified in the consolidated district library agreement for a district library being consolidated into the consolidated district library to cease providing library services, the board of that district library is dissolved and, subject to subsection (8), the assets and liabilities of that district library are transferred to the consolidated district library. Any contract entered into by a district library consolidated into the consolidated district library, if entered into after the requirements of subsection (1) for establishment of a consolidated district library have been satisfied, may be rescinded by the consolidated district library within 60 days after the consolidated district library is established. If so provided in the consolidated district library agreement, the consolidated district library board may be established and may function prior to the consolidated district library establishment date specified in the agreement for the purpose of preparing for the establishment. Preparation may include, but is not limited to, entering into contracts that will become effective on or after the date on which the consolidated district library is established. Preparation does not include levying a tax. A consolidated district library is a successor district library to the district libraries consolidated into the consolidated district library.

(7) If a consolidated district library agreement prescribes appointed board members, the board shall consist of not fewer than 5 and not more than 9 members. The agreement may authorize 1 or more board members to be appointed by a municipality that was a participating municipality in a district library included in the consolidated district library, even though that municipality is not participating in the consolidated district library.

(8) A tangible asset of a district library being included in a consolidated district library, that was contributed to that district library for use by that district library only, shall be distributed upon establishment of the consolidated district library to the distributee designated by that included district library's agreement to receive that asset upon dissolution of that district library, unless that distributee concurs in a different distribution. A tangible asset that has been transferred to a district library for nominal consideration is considered contributed to that library. A tangible asset that was

originally received by a district library being included in a consolidated district library, from a participating municipality of that district library, and which under that district library's agreement is to be distributed to that municipality upon dissolution of that district library, is not transferred to the consolidated district library without the approval of that municipality.

(9) A consolidated district library may not levy a tax that was authorized for a district library included in the consolidated district library. A ballot question for approval of the establishment of a consolidated district library may include authorization for a districtwide tax for the consolidated district library. However, a consolidated district library tax authorization may be stated as a separate ballot question. A question whether to approve the establishment of a consolidated district library, and, prior to establishment of a consolidated district library, a proposal for authorization of a districtwide tax for a consolidated district library, may be submitted to the electorate through adoption of a resolution of, and certification by, the county board of commissioners. After a consolidated district library is established, any ballot proposal for a districtwide tax for that library shall be adopted and certified by that library's board. Submission to the electorate of a proposal for authorization of a districtwide tax, as permitted by this subsection through action by the county board of commissioners prior to establishment of a consolidated district library, does not render the tax, if authorized and levied, a county tax as distinguished from a district library tax. If the tax is authorized, any levy of the tax shall be by the board of the consolidated district library. A consolidated district library shall not levy a tax before the boards of all the district libraries being consolidated into the consolidated district library are dissolved as provided in subsection (6).

(10) A question of whether to approve establishment of a district library, and a question of whether to approve a proposal for a districtwide tax for a consolidated district library, shall be certified by the county board of commissioners or the consolidated district library board to the clerk not later than 60 days before the election. The question shall be certified for inclusion on the ballot at the next general election or the next state primary election immediately preceding the next general election, scheduled to be held at least 60 days after the certification, or at a special election not occurring within 45 days of that next general or primary election.

(11) For purposes of sections 14 through 23, a question certified under subsection (10), and an election of members of a consolidated district library board, shall be considered as being for a district in which none of the participating municipalities are school districts, notwithstanding whether 1 or more school districts are such municipalities. If a consolidated district library is established, the costs of an election on whether to approve a resolution providing for establishment of the district library shall be charged to and reimbursed by the consolidated district library in the same manner and to the same extent as costs are charged to and reimbursed by the district library under section 23 for an election for board members or a districtwide tax. If there is an election on whether to approve the establishment of a consolidated district library, and if the consolidated district library is not established, costs of the election, which would be charged to and reimbursed by the consolidated district library under this subsection if the consolidated district library had been established, shall be charged to and reimbursed by the county. Those costs include the costs of any proposal for a districtwide tax for the consolidated district library submitted to the electorate at that same election.

(12) A consolidated district library is a district library established pursuant to this act. Subject to this section, other sections of this act apply to a consolidated district library.

This act is ordered to take immediate effect.  
Approved July 25, 2002.  
Filed with Secretary of State July 26, 2002.

**[No. 541]****(SB 1302)**

AN ACT to amend 2001 PA 34, entitled “An act relative to the borrowing of money and the issuance of certain debt and securities; to provide for tax levies and sinking funds; to prescribe powers and duties of certain departments, state agencies, officials, and employees; to impose certain duties, requirements, and filing fees upon political subdivisions of this state; to authorize the issuance of certain debt and securities; to prescribe penalties; and to repeal acts and parts of acts,” by amending sections 105, 303, 319, 401, 517, and 809 (MCL 141.2105, 141.2303, 141.2319, 141.2401, 141.2517, and 141.2809) and by adding sections 304, 308, and 802; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

**141.2105 Municipal security; limitations.**

Sec. 105. A municipal security does not include any of the following:

- (a) A contract for the purchase of real or personal property.
- (b) A contract for the lease of real or personal property with or without an option to purchase.
- (c) A contract, lease, note, or other security given in connection with a contract described in subdivision (a) or (b).
- (d) A security that is evidence of an emergency loan under section 1 of 1855 PA 105, MCL 21.141, in conjunction with the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, or qualified agricultural loans under section 2a of 1855 PA 105, MCL 21.142a.
- (e) A mortgage secured by real property and its corresponding security to the extent secured by the mortgage.
- (f) A contract between 1 or more municipalities under whose terms 1 or more municipalities pledge their revenues or full faith and credit to secure payment of a proposed municipal security issued by 1 of the municipalities.

**141.2303 Annual audit report and qualifying statement; filing by municipality; compliance requirements; determination; correction of noncompliant requirements; reconsideration; order granting exception from prior approval.**

Sec. 303. (1) Each municipality shall file an audit report annually with the department within 6 months from the end of its fiscal year or as otherwise provided in the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(2) Accompanying the audit report described in subsection (1), a municipality shall file a qualifying statement, on a form and in the manner provided by the department, which shall be certified by the chief administrative officer. Within 30 business days of the receipt of the qualifying statement, the department shall determine if the municipality complies with the requirements of subsection (3). If the department determines that the municipality complies with the provisions of subsection (3) or if the department fails to notify the municipality of its determination under this subsection within 30 business days of receipt of the qualifying statement, the municipality may proceed to issue municipal securities under this act without further approval from the department until 30 business days after the next qualifying statement is due or a new determination is made by the department, whichever occurs first.

(3) To qualify to issue municipal securities without further approval from the department, the municipality shall be in material compliance with all of the following requirements, as determined by the department:

(a) The municipality is not operating under the provisions of the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291.

(b) The municipality did not issue securities in the immediately preceding 5 fiscal years or current fiscal year that were authorized by either the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, other than a security issued for a loan authorized under section 3(2)(a) of the emergency municipal loan act, 1980 PA 243, MCL 141.933, or the fiscal stabilization act, 1981 PA 80, MCL 141.1001 to 141.1011.

(c) The municipality was not required by the terms of a court order or judgment to levy a tax in the preceding fiscal year. For purposes of this subdivision, the department may determine that a court order or judgment to levy a tax is not material if it did not have an adverse financial impact on the municipality.

(d) The most recent audit report, as required by the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, was filed with the department within 6 months from the end of the fiscal year of the municipality.

(e) The debt retirement fund balance for any municipal security that is funded from an unlimited tax levy does not exceed 150% of the amount required for principal and interest payments due for that municipal security in the next fiscal year.

(f) The municipality is not currently exceeding its statutory or constitutional debt limits.

(g) The municipality has no outstanding securities that were not authorized by statute.

(h) The municipality is not currently and during the preceding fiscal year was not in violation of any provisions in the covenants for an outstanding security.

(i) The municipality was not delinquent more than 1 time in the preceding fiscal year in transferring employee taxes withheld to the appropriate agency, transferring taxes collected as agent for another taxing entity to that taxing unit, or making all required pension, retirement, or benefit plan contributions.

(j) The most recent delinquent property taxes of the municipality, without regard to payments received from the county under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, did not exceed 18% of the amount levied.

(k) The municipality did not submit a qualifying statement or an application for any other municipal security in the preceding 12 months that was materially false or incorrect.

(l) The municipality is not in default on the payment of any debt, excluding industrial development revenue bonds issued under the industrial development revenue bond act of 1963, 1963 PA 62, MCL 125.1251 to 125.1267, economic development corporation bonds issued under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, bonds issued by a local hospital finance authority for a private hospital under the hospital finance authority act, 1969 PA 38, MCL 331.31 to 331.84, or any other debt for which the municipality is not financially liable.

(m) The municipality did not end the immediately preceding fiscal year with a deficit in any fund, unless the municipality has filed a financial plan to correct that deficit condition that is acceptable to the department.

(n) The municipality has not been found by a court of competent jurisdiction to be in violation of any finance or tax-related state or federal statutes during the preceding fiscal year.

(o) The municipality has not been determined by the department to be in violation of this act during the preceding fiscal year.

(p) The municipality did not issue a refunding security in the preceding fiscal year to avoid a potential default on an outstanding security.

(4) If a municipality is notified within 30 business days of the filing of the qualifying statement that it does not comply with 1 or more of the requirements of subsection (3), the municipality may correct the noncompliant requirements and request a reconsideration of the determination from the department as provided in subsection (5).

(5) A municipality may request a reconsideration of the determination from the department. That request shall indicate the requirements that the department determined the municipality to be not in compliance with and the action taken by the municipality to correct the noncompliance. Within 30 business days of the receipt of the request for reconsideration, the department shall determine if the municipality complies with the requirements of subsection (3) or, if the department fails to notify the municipality of its determination under this subsection within 30 business days of receipt of the request for reconsideration, the municipality will be granted qualified status.

(6) If a municipality is notified within 30 business days after filing a request for reconsideration that it does not comply with the requirements of subsection (3), the municipality shall not issue municipal securities under this act without the prior written approval of the department to issue a municipal security as provided in subsections (7) and (8).

(7) If a municipality has not been granted qualified status, the municipality must obtain, for each municipal security, the prior written approval of the department to issue a municipal security. To request prior written approval to issue a municipal security, the municipality shall submit an application and supporting documentation to the department on a form and in a manner prescribed by the department, which shall be certified by the chief administrative officer. A filing fee equal to 0.03% of the principal amount of the municipal security to be issued, but not less than \$800.00 and not greater than \$2,000.00 as determined by the department, shall accompany each application. If the qualifying statement required by subsection (2) was received by the department more than 6 months after the end of the municipality's fiscal year, a late fee of \$100.00 shall accompany the first application filed after that date. Within 30 business days of receiving an application, the fee, and supporting documentation from a municipality, the department shall make a determination whether the municipality has met all of the following requirements:

(a) Has indicated the authority to issue the municipal security requested.

(b) Is projected to be able to repay the municipal security when due.

(c) Has filed information with the department indicating compliance with the requirements of subsection (3) or adequately addressed any noncompliance with subsection (3) as determined by the department.

(d) If required by the department, has obtained an investment grade rating for the municipal security or has purchased insurance for payment of the principal and interest on the municipal security to the holders of the municipal security, or has otherwise enhanced the creditworthiness of the municipal security.

(8) If the department determines that the requirements in subsection (7) have been met, the department shall approve the issuance of the proposed municipal security. If the department determines that the requirements in subsection (7) have not been met, the department shall issue a notice of deficiency to the municipality that prevents the issuance of the proposed municipal security. The notice of deficiency shall state the specific deficiencies and problems with the proposed issuance. After the deficiencies and problems

have been addressed as determined by the department, the department shall approve the issuance of the proposed municipal security.

(9) A determination by the department that a municipality has been granted qualified status constitutes an order granting exception from prior approval under former 1943 PA 202, of that municipality's securities.

#### **141.2304 Issuance of municipal security; provisions applicable to contracting municipalities.**

Sec. 304. If a municipality issues a municipal security subject to this act and the principal and interest for that municipal security will be paid by 1 or more municipalities not issuing the municipal security under a contract, then 1 of the following applies:

(a) If all of the municipalities contracting to pay the municipal security have been granted qualified status, then the issuance of the municipal security is subject to section 303(2).

(b) Except as provided in subdivision (c), if 1 or more of the municipalities contracting to pay the municipal security have not been granted qualified status, then the issuance of the municipal security is subject to section 303(7).

(c) If 1 or more of the municipalities contracting to pay the municipal security have not been granted qualified status and the other municipalities representing over 50% of the contractual obligation have been granted qualified status and the municipality that issues the municipal security has been granted qualified status and pledges its full faith and credit on the municipal security, then the issuance of the municipal security is subject to section 303(2).

#### **141.2308 Limited tax full faith and credit pledge; notice.**

Sec. 308. If a municipality issues a municipal security that contains the limited tax full faith and credit pledge of the municipality after October 1, 2002, a notice of at least 1 meeting at which a decision will be made or discussed with respect to the issuance of the municipal security shall contain a statement that the proposed municipal security will contain a limited tax full faith and credit pledge of the municipality. This section does not apply to a refunding security, short-term municipal security issued under part 4, or a municipal security for which the municipality is required to provide a notice of the right of referendum by law or charter.

#### **141.2319 Document to be filed by municipality; failure to comply with subsection (1) or (2).**

Sec. 319. (1) Within 15 business days of completing the issuance of any municipal security qualified under section 303(3), the municipality shall file a copy of all of the following with the department in a form and manner prescribed by the department:

(a) A copy of the municipal security.

(b) A proof of publication of the notice of sale, if applicable.

(c) A copy of the award resolution or certificate of award including a detail of the annual interest rate and call features on the municipal security.

(d) A copy of the legal opinion regarding the legality and tax status of the municipal security.

(e) A copy of the notice of rating of the municipal security received from a recognized rating agency, if any.

(f) A copy of the resolution or ordinance authorizing the issuance of the municipal security.

(g) A copy of the official statement, if any.

(h) For a refunding security, documentation indicating compliance with section 611.

(i) A filing fee equaling 0.02% of the principal amount of the municipal security issued, but in an amount not less than \$100.00 and not greater than \$1,000.00, as determined by the department.

(j) If the qualifying statement required by section 303(2) was received by the department more than 6 months after the end of the municipality's fiscal year, a late fee of \$100.00 with the first filing thereafter.

(k) For a municipal security issued under section 305(2), documentation indicating compliance with section 305(2).

(2) Within 15 business days of completing the issuance of any municipal security approved under section 303(7), the municipality shall file all of the following with the department in a form and manner prescribed by the department:

(a) A copy of the municipal security.

(b) A proof of publication of the notice of sale, if applicable.

(c) A copy of the award resolution including a detail of the annual interest rate and call features on the municipal security.

(d) A copy of the legal opinion regarding the legality and tax status of the municipal security.

(e) A copy of the notice of rating of the municipal security received from a recognized rating agency, if any.

(f) A copy of the resolution or ordinance authorizing the issuance of the municipal security.

(g) A copy of the official statement, if any.

(h) For a refunding security, documentation indicating compliance with section 611.

(i) For a municipal security issued under section 305(2), documentation indicating compliance with section 305(2).

(3) The failure to comply with subsection (1) or (2) does not invalidate any of the securities issued or reported under this act.

#### **141.2401 Short-term municipal securities; issuance; conditions; public airport authority.**

Sec. 401. (1) A municipality may, by resolution of its governing body, and without a vote of the electors, issue short-term municipal securities in anticipation of and payable from taxes to be collected by the municipality for its then next succeeding fiscal year or the taxes for a current fiscal year, or if the taxes for the next succeeding fiscal year and the taxes for the current fiscal year are both levied in the same calendar year, then in anticipation of and payable from the collection of both of the taxes.

(2) By resolution of its governing body and without a vote of the electors, an authority organized under 1957 PA 206, MCL 259.621 to 259.631, or a public airport authority created or incorporated under the public airport authority act, chapter VIA of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.108 to 259.125c, may borrow money and issue short-term municipal securities maturing not more than 1 year from the date of issue in anticipation of the collection of revenues to which it will be entitled to receive within 1 year from the date of the short-term municipal securities' issuance. The amount of the short-term municipal securities issued under this section shall

not exceed 50% of the revenues collected in the preceding fiscal year not pledged for the payment of a security other than a short-term municipal security issued under this section as conclusively certified by the governing body of the authority. The resolution shall provide for the pledging of all or a portion of the revenues of the authority not previously pledged for the payment of a security. The resolution may also provide for the pledging of other assets of the authority as additional security for the payment of the short-term municipal security. The resolution also shall provide that from the receipts of the revenues in anticipation of which the authority issued the short-term municipal security, there shall be set aside in a special fund to be used for the payment of principal and interest on the short-term municipal security a portion of each dollar received that is not less than 125% of the percentage that the principal amount of the short-term municipal security bears to the amount certified as the revenues estimated to be collected, until the amount set aside is sufficient for the payment of principal and interest on the short-term municipal security. The amount set aside shall be used only for the payment of the principal and interest on the short-term municipal security until the short-term municipal security is paid as to both principal and interest. Except when in conflict with the requirements of section 9 of 1957 PA 206, MCL 259.629, the short-term municipal securities authorized under this subsection are subject to this act.

**141.2517 Capital improvement items; issuance of municipal security to pay cost; notice of intent; petition; referendum; special election; limitation on amount.**

Sec. 517. (1) A county, city, village, or township may by resolution of its governing body, and without a vote of its electors, issue a municipal security under this section to pay the cost of any capital improvement items, provided that the amount of taxes necessary to pay the principal and interest on that municipal security, together with the taxes levied for the same year, shall not exceed the limit authorized by law.

(2) If a county, city, village, or township issues a municipal security under this section, before issuance, the county, city, village, or township shall publish a notice of intent to issue the municipal security. The notice of intent shall be directed to the electors of the county, city, village, or township, shall be published in a newspaper that has general circulation in the county, city, village, or township, and shall state the maximum amount of municipal securities to be issued, the purpose of the municipal securities, the source of payment, the right of referendum on the issuance of the municipal securities, and any other information the county, city, village, or township determines necessary to adequately inform the electors of the nature of the issue. The notice of intent shall not be less than 1/4 page in size in the newspaper. If, within 45 days after the publication of the notice of intent, a petition, signed by not less than 10% or 15,000 of the registered electors, whichever is less, residing within the county, city, village, or township, is filed with the governing body of the county, city, village, or township, requesting a referendum upon the question of the issuance of the municipal securities, then the municipality shall not issue the municipal securities until authorized by the vote of a majority of the electors of the county, city, village, or township qualified to vote and voting on the question at a general or special election. A special election called for this purpose shall not be included in a statutory or charter limitation as to the number of special elections to be called within a period of time. Signatures on the petition shall be verified by a person under oath as the actual signatures of the persons whose names are signed to the petition, and the governing body of the county, city, village, or township shall have the same power to reject signatures and petitions as city clerks under section 25 of the home rule city act, 1909 PA 279, MCL 117.25. The number of registered electors in the county, city, village, or township shall be determined by the governing body of the county, city, village, or township.



(3) Municipal securities issued under subsection (1) by a county, city, village, or township shall not exceed 5% of the state equalized valuation of the property assessed in that county, city, village, or township.

### **141.2802 Outstanding municipal security; default; powers of department; plan; implementation.**

Sec. 802. (1) If a municipality fails to pay any installment of principal or interest on an outstanding municipal security on or before its due date, the state treasurer, for a municipality other than a school district, or the superintendent of public instruction, for a school district, may take that action it considers advisable to investigate the municipality's fiscal affairs, may consult with the governing body of the municipality, and may negotiate with the municipality's creditors in order to assist the municipality in developing a plan for financing, adjusting, or compromising the outstanding municipal security for which a payment of an installment of principal or interest had not been paid. As a component of a plan for financing the outstanding municipal security that has been defaulted upon, the department may agree and shall have the power to withhold all or part of state payments under an appropriation made to the municipality, the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, or the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, that the municipality is entitled to receive and to use these withheld amounts to pay unpaid amounts or subsequently due amounts, or both, of principal and interest on the outstanding municipal security.

(2) When a plan is developed that the department finds to be fair and equitable and reasonably within the ability of the municipality to meet, the department shall enter an order finding that it is fair, equitable, and within the ability of the municipality to meet. The department shall then advise the governing body to take the necessary steps to implement the plan. If the governing body declines or refuses to do so within 90 days after receiving the department's advice, the department shall be vested with all powers of the municipality, its governing body, and its officers that are necessary to implement the plan. When the department is vested with the authority to implement the plan, the members of the governing body and all officers and employees of the municipality shall be under an affirmative duty to do all things the department determines to be necessary to implement the plan. The department may institute appropriate proceedings in the courts of this state, including those for writs of mandamus and injunctions, to enforce the department's implementation of the plan and compliance with the plan by the governing body and other officers and employees of the municipality.

### **141.2809 Effect of orders approving issuance of securities.**

Sec. 809. All orders approving the issuance of securities issued by the department shall continue in force and effect until October 31, 2002. The terms of former 1943 PA 202 and the administrative rules of the municipal finance division shall apply with respect to any security issued pursuant to an order of the department that was issued before May 1, 2002.

### **Repeal of § 141.2815.**

Enacting section 1. Section 815 of the revised municipal finance act, 2001 PA 34, MCL 141.2815, is repealed.

This act is ordered to take immediate effect.

Approved July 25, 2002.

Filed with Secretary of State July 26, 2002.

**[No. 542]****(SB 1275)**

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe penalties and sanctions,” by amending sections 2, 5, 5a, 7, 8, 9, and 10 (MCL 28.722, 28.725, 28.725a, 28.727, 28.728, 28.729, and 28.730), sections 2, 5, 7, 8, 9, and 10 as amended and section 5a as added by 1999 PA 85, and by adding sections 1a and 4a.

*The People of the State of Michigan enact:*

**28.721a Legislative declarations; determination; intent.**

Sec. 1a. The legislature declares that the sex offenders registration act was enacted pursuant to the legislature’s exercise of the police power of the state with the intent to better assist law enforcement officers and the people of this state in preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders. The legislature has determined that a person who has been convicted of committing an offense covered by this act poses a potential serious menace and danger to the health, safety, morals, and welfare of the people, and particularly the children, of this state. The registration requirements of this act are intended to provide law enforcement and the people of this state with an appropriate, comprehensive, and effective means to monitor those persons who pose such a potential danger.

**28.722 Definitions.**

Sec. 2. As used in this act:

(a) “Convicted” means 1 of the following:

(i) Having a judgment of conviction or a probation order entered in any court having jurisdiction over criminal offenses, including but not limited to, a tribal court or a military court, and including a conviction subsequently set aside under 1965 PA 213, MCL 780.621 to 780.624.

(ii) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15.

(iii) Having an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28.

(iv) Having an order of disposition or other adjudication in a juvenile matter in another state or country.

(b) “Department” means the department of state police.

(c) “Institution of higher education” means 1 or more of the following:

(i) A public or private community college, college, or university.

(ii) A public or private trade, vocational, or occupational school.

(d) “Local law enforcement agency” means the police department of a municipality.

(e) “Listed offense” means any of the following:

(i) A violation of section 145a, 145b, or 145c of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.145b, and 750.145c.

(ii) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.