

(2) Except as provided in subsection (3), if a petition for rehearing or an appeal as of right from an order terminating parental rights has been filed, the court shall not order an adoption until 1 of the following occurs:

(a) The petition for rehearing is granted, and at the rehearing the order terminating parental rights is not modified or set aside, and subsequently the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(b) The petition for rehearing is denied and the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(c) The court of appeals affirms the order terminating parental rights.

(3) If an application for leave to appeal has been filed with the supreme court, the court shall not order an adoption until 1 or more of the following occurs:

(a) The application for leave to appeal is denied.

(b) The supreme court affirms the order terminating parental rights.

(4) If a motion brought under section 45 of this chapter has been filed, the court shall not order an adoption until 1 of the following occurs:

(a) The motion is decided and subsequently the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(b) The motion is decided, an appeal as of right to the court of appeals has been filed, the court of appeals issues an opinion, and subsequently the period for filing an application for leave to the supreme court has expired without an application being filed.

(c) The supreme court denies an application for leave or, if an application is granted, the supreme court issues an opinion.

(5) If the person to be adopted is an adult, the court may enter an order of adoption after all of the following occur:

(a) The person to be adopted consents to the adoption according to section 43(3) of this chapter.

(b) The written report of investigation required by section 46(2) of this chapter is filed.

(c) Notice has been served upon interested parties described in section 24a of this chapter.

This act is ordered to take immediate effect.

Approved December 22, 2004.

Filed with Secretary of State December 28, 2004.

[No. 488]

(HB 6033)

AN ACT to create the Ronald Wilson Reagan memorial monument fund; and to prescribe the purpose of the monument fund.

The People of the State of Michigan enact:

399.271 Short title.

Sec. 1. This act shall be known and may be cited as the “Ronald Wilson Reagan memorial monument fund act”.

399.272 Definitions.

Sec. 2. As used in this act:

(a) “Commission” means the Ronald Wilson Reagan memorial monument fund commission created in the Ronald Wilson Reagan memorial monument fund commission act.

(b) “Monument fund” means the Ronald Wilson Reagan memorial monument fund created in section 3.

399.273 Ronald Wilson Reagan memorial monument fund; creation; tax status; credit and use of money; use of remaining balance as maintenance.

Sec. 3. The Ronald Wilson Reagan memorial monument fund is created as a separate fund in the department of treasury. The state treasurer shall seek appropriate federal tax status for the monument fund. The state treasurer shall credit to the monument fund the money appropriated to the monument fund, money received for the monument fund under section 5 of the Ronald Wilson Reagan memorial monument fund commission act, and all interest that accrues on money in the monument fund. The commission may use money in the monument fund as described in the Ronald Wilson Reagan memorial monument fund commission act.

399.274 Use of remaining balance.

Sec. 4. After the completion of construction of the monument pursuant to section 4 of the Ronald Wilson Reagan memorial monument fund commission act and payment of all amounts due in connection with the monument, any balance remaining in the monument fund shall be used to maintain the Ronald Wilson Reagan memorial monument.

Conditional effective date.

Enacting section 1. This act does not take effect unless Senate Bill No. 1317 of the 92nd Legislature is enacted into law.

Approved December 27, 2004.

Filed with Secretary of State December 28, 2004.

Compiler's note: Senate Bill No. 1317, referred to in enacting section 1, was filed with the Secretary of State December 28, 2004, and became P.A. 2004, No. 489, Imd. Eff. Dec. 28, 2004.

[No. 489]

(SB 1317)

AN ACT to create the Ronald Wilson Reagan memorial monument fund commission to govern the Ronald Wilson Reagan memorial monument fund; to prescribe the powers and duties of the commission and certain state departments and officers; to provide for penalties; and to provide for dissolution of the commission.

The People of the State of Michigan enact:

399.261 Short title.

Sec. 1. This act shall be known and may be cited as the “Ronald Wilson Reagan memorial monument fund commission act”.

399.262 Definitions.

Sec. 2. As used in this act:

(a) “Commission” means the Ronald Wilson Reagan memorial monument fund commission created in section 3.

(b) “Monument fund” means the Ronald Wilson Reagan memorial monument fund created in the Ronald Wilson Reagan memorial monument fund act.

399.263 Ronald Wilson Reagan memorial monument fund commission; creation; membership; terms; vacancy; first meeting; quorum; conducting business at public meetings; availability of writings to public.

Sec. 3. (1) The Ronald Wilson Reagan memorial monument fund commission is created in the department of management and budget. The commission is the governing body of the monument fund. The commission shall consist of all of the following:

(a) The state treasurer or his or her designee.

(b) The attorney general or his or her designee.

(c) The secretary of state or his or her designee.

(d) Seven members appointed by the governor as follows:

(i) Two members selected by the governor.

(ii) Two members recommended by the senate majority leader.

(iii) Two members recommended by the speaker of the house of representatives.

(iv) One member recommended by the Ronald Reagan presidential foundation.

(2) Members of the commission shall serve for terms of 4 years or until a successor is appointed, whichever is later. If a vacancy occurs on the commission, the vacancy shall be filled in the same manner as the original appointment.

(3) The commission shall initially convene within 6 months after the first deposit of money in the monument fund. The commission shall meet often enough to expedite the completion of the monument as prescribed in section 4. A majority of the members of the commission constitute a quorum for conducting business.

(4) The commission shall conduct its business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

399.264 Duties of commission; designs.

Sec. 4. The commission shall oversee the financing, design, site location, and construction of a memorial monument dedicated to President Ronald Wilson Reagan. The commission shall solicit designs for the monument and shall select the final design.

399.265 Funding sources; prohibited conduct; violation as misdemeanor; penalty.

Sec. 5. (1) The commission may accept on behalf of the monument fund grants or gifts from the federal government, an individual, a public or private corporation, organization, or foundation, or any other source. The acceptance and use of federal funds by the commission does not commit state money and does not obligate the legislature to continue the purposes for which federal money is made available. The commission shall transmit money received under this section to the state treasurer for deposit in the monument fund.

(2) A person shall not solicit or collect money for the monument fund through the use of telemarketing.

(3) A person shall not conduct any fund-raising activities in the name of the Ronald Wilson Reagan memorial monument fund without prior written approval from the Ronald Wilson Reagan memorial monument fund commission.

(4) A person shall not use the name or logo of the Ronald Wilson Reagan memorial monument fund or commission in any fund-raising activity without prior written approval of the commission.

(5) A person who violates subsection (2), (3), or (4) is guilty of a misdemeanor for each separate violation, punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

399.266 Dissolution of commission.

Sec. 6. After the completion of construction of the monument pursuant to section 4 and payment of all amounts due in connection with the monument, the commission is dissolved.

Conditional effective date.

Enacting section 1. This act does not take effect unless House Bill No. 6033 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved December 27, 2004.

Filed with Secretary of State December 28, 2004.

Compiler's note: House Bill No. 6033, referred to in enacting section 1, was filed with the Secretary of State December 28, 2004, and became P.A. 2004, No. 488, Eff. Mar. 30, 2005.

[No. 490]

(SB 517)

AN ACT to amend 1984 PA 427, entitled "An act to provide for a retirement system for municipal and judicial employees; to create a retirement board and to prescribe its powers and duties; to prescribe the powers and duties of certain other state officers and agencies; and to repeal certain acts and parts of acts," by amending sections 2a, 2b, and 36 (MCL 38.1502a, 38.1502b, and 38.1536), as amended by 1996 PA 220; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

38.1502a Definitions; C to J.

Sec. 2a. (1) "Certification date" means August 15, 1996.

(2) "Chief judge" means the chief judge of a judicial circuit court, a judicial district court, or a judicial probate court as provided in the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948.

(3) "Governing body" means the representative legislative body of a municipality, or the administrative board or commission of a public corporation or instrumentality that does not have a representative legislative body.

(4) "Judicial circuit court" means a judicial circuit of the circuit court as provided in section 11 of article VI of the state constitution of 1963.

(5) “Judicial district court” means a judicial district of the district court as provided in section 8101 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8101.

(6) “Judicial probate court” means a county probate court or probate court district as provided in section 15 of article VI of the state constitution of 1963.

38.1502b Definitions; M.

Sec. 2b. (1) “Member” means an individual who is included in the membership of the retirement system, as determined by the retirement board.

(2) “Municipality” means 1 or more of the following:

(a) A county, county road commission, city, village, or township.

(b) A public corporation or instrumentality established by 1 or more counties, cities, villages, or townships.

(c) A public corporation or instrumentality charged by law with the performance of a governmental function and whose jurisdiction is coextensive with 1 or more counties, cities, villages, or townships.

(d) A political subdivision located in this state or located in this and another adjacent state of the United States, including, but not limited to, the entities named in subdivision (a), (b), or (c), or any combination of those units.

(e) A political subdivision located in this state and a metropolitan government borough, or other political subdivision of the province of Ontario, an agency of the United States, or a similar entity of adjacent states of the United States and the province of Ontario.

(f) A state university, community college, or junior college whose employees are not public school employees who are members under the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408.

(g) Any municipal corporation as defined in section 1(a) of 1951 PA 35, MCL 124.1, or other governmental entity that is eligible to join the retirement system and participate in any program under this act, as determined by the retirement board.

38.1536 Retirement board; creation; board as public corporation; powers and duties; administrative functions; membership; rules of procedure; record of proceedings; quorum; voting; term of office; oath; expenses; absence of member from work; vacancy; chairperson and chairperson pro tem; chief executive officer.

Sec. 36. (1) A retirement board is created to administer this act. Before the certification date, the retirement board shall operate within the department of management and budget. On and after the certification date, the retirement system shall become a public corporation and shall no longer operate within the executive branch of this state.

(2) On and after the certification date, the retirement board has all of the following powers and duties:

(a) The retirement board shall determine and establish all of the provisions of the retirement system affecting benefit eligibility, benefit programs, contribution amounts, and the election of municipalities, judicial circuit courts, judicial district courts, and judicial probate courts to be governed by the provisions of the retirement system. The retirement board shall establish all retirement system provisions. As of 12:01 a.m. on the certification date, the retirement system provisions shall not differ materially from the defined benefit provisions that are in effect under this act at 11:59 p.m. on the day immediately before the certification date. This subdivision does not limit the retirement board’s authority after the certification date to establish additional programs including but not limited to defined benefit, defined contribution, ancillary benefits, health and welfare benefits, and other

postemployment benefit programs. The retirement board may adopt the provisions of the reciprocal retirement act, 1961 PA 88, MCL 38.1101 to 38.1106, on behalf of the employees of the retirement board.

(b) The retirement board has the full and exclusive authority and full responsibility to employ and pay for all professional services including but not limited to actuarial, investment, legal, accounting, and any other services that the retirement board considers necessary for the proper operation of the retirement system. The power granted to the retirement board in this subdivision includes complete control of the procurement process.

(c) The retirement board shall appoint a chief executive officer and any other employees for which the retirement board establishes positions. The retirement board shall establish the compensation of all persons appointed by the board. On and after the certification date, a person employed by the public corporation is not an employee of this state for any purpose.

(d) The retirement board shall arrange for an annual actuarial valuation and report of the actuarial soundness of each participating municipality and court to be prepared by an independent actuary based upon data compiled and supplied by employees of the retirement system. The retirement board shall adopt actuarial tables, assumptions, and formulas after consultation with the actuary.

(e) The retirement board shall arrange for annual audits of the records and accounts of the retirement system by a certified public accountant or by a firm of certified public accountants pursuant to generally accepted auditing standards and the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(f) The retirement board shall prepare an annual report for each fiscal year in compliance with generally accepted accounting principles. The report shall contain information regarding the financial, actuarial, and other activities of the retirement system during the fiscal year. The retirement board shall furnish a copy of the annual report to the governor and a copy in print or electronic format to each house of the legislature, each participating municipality, and each participating court. The retirement board shall make the report available to all members upon request. The report shall also contain a review of the actuarial valuation required under subdivision (d), if available.

(g) The retirement board shall appoint an attorney to be the legal advisor of the board and to represent the board in all proceedings.

(h) The retirement board shall appoint or employ custodians of the assets of the retirement system. The custodians shall perform all duties necessary and incidental to the custodial responsibility and make disbursements of authorized retirement system payments from the funds of the retirement system.

(i) The retirement board shall perform other functions that are required for the execution of the provisions of this act.

(j) The retirement board shall establish the time and location of the meetings of the retirement board and the time and location of the annual meeting of the retirement system, consistent with the provisions of the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) Before the certification date, the provisions of the executive organization act of 1965, 1965 PA 380, MCL 16.101 to 16.608, and the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, shall govern the administrative functions of the retirement system. However, any provision of law in actual conflict with the provisions of the amendatory act that added this sentence shall not apply.

(4) On and after the certification date, the retirement board consists of the following 9 members, each of whom, excepting the retiree member and the retirement board appointees, shall be from a different county at the time of appointment:

(a) Two members appointed by the retirement board who have knowledge or experience in retirement systems, administration of retirement systems, or investment management or advisory services.

(b) One member who is a retiree of the system appointed by the board.

(c) Three members of the retirement system who are officers of participating municipalities or courts, who shall be designated as officer board members.

(d) Three employee members of the retirement system who are not officers of a participating municipality or court, who shall be designated as employee board members.

(5) The retirement board shall adopt its own rules of procedure and shall keep a record of its proceedings. Five members of the retirement board shall constitute a quorum at any meeting of the retirement board and at least 5 concurring votes shall be necessary for any decision by the retirement board. Each member of the retirement board shall be entitled to 1 vote on each question before the retirement board.

(6) The regular term of office of members of the retirement board is 3 years. Each member of the retirement board shall take an oath of office before assuming the duties of the position. Members of the retirement board shall serve without compensation with respect to their duties, but shall be reimbursed by the retirement system for their actual and necessary expenses incurred in the performance of their duties. A participating municipality or court employing a member of the retirement board shall treat absences from work on account of retirement board business in such a manner that the individual does not suffer loss of pay or benefits.

(7) A vacancy shall occur on the retirement board upon the occurrence of any of the following events:

(a) An officer board member ceases to be eligible for nomination as an officer board member.

(b) An employee board member ceases to be eligible for nomination as an employee board member.

(c) Failure to attend 3 consecutive scheduled meetings of the retirement board, unless excused for cause by majority vote of the board members attending the meeting.

(8) A vacancy occurring on the retirement board at least 120 days before the expiration of a term of office shall be filled by the retirement board. Board appointments under this subsection shall be for the period ending on the December 31 next following the date of the vacancy. For the officer board members and employee board members, a replacement for any further portion of the unexpired term shall be filled pursuant to section 45. For the 2 appointed board members and the retiree board member, a replacement for any further portion of the unexpired term shall be filled pursuant to subsection (4).

(9) The retirement board shall select from its members a chairperson and a chairperson pro-tem.

(10) The retirement board shall employ a chief executive officer. The chief executive officer shall do all of the following:

(a) Manage and administer the retirement system under the supervision and direction of the retirement board.

(b) Invest the assets of the retirement system, as directed by the retirement board, consistent with the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140m, which act governs the investment of assets of public employee retirement systems.

(c) Annually prepare and submit to the retirement board for review, amendment, and adoption an itemized budget showing the amount required to pay the retirement system's expenses for the following fiscal year.

(d) Perform other duties as the retirement board, in its discretion, shall delegate to the chief executive officer.

Repeal of MCL 38.1536a.

Enacting section 1. Section 36a of the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1536a, is repealed.

This act is ordered to take immediate effect.

Approved December 27, 2004.

Filed with Secretary of State December 28, 2004.

[No. 491]

(HB 5670)

AN ACT to amend 1969 PA 306, entitled “An act to provide for the effect, processing, promulgation, publication, and inspection of state agency rules, determinations, and other matters; to provide for the printing, publishing, and distribution of certain publications; to provide for state agency administrative procedures and contested cases and appeals from contested cases in licensing and other matters; to create and establish certain committees and offices; to provide for declaratory judgments as to rules; to repeal certain acts and parts of acts; and to repeal certain parts of this act on a specific date,” by amending sections 24, 41, 42, 45, 45a, 51, and 52 (MCL 24.224, 24.241, 24.242, 24.245, 24.245a, 24.251, and 24.252), sections 24, 41, 42, 45, 45a, and 52 as amended by 2004 PA 23.

The People of the State of Michigan enact:

24.224 Adoption of guideline; notice.

Sec. 24. (1) Before the adoption of a guideline, an agency shall give electronic notice of the proposed guideline to the committee, the office of regulatory reform, and each person who requested the agency in writing or electronically for advance notice of proposed action that may affect the person. The committee shall electronically provide the notice of the proposed guideline not later than the next business day after receipt of the notice from the agency to members of the committee and to members of the standing committees of the senate and house of representatives that deal with the subject matter of the proposed guideline. The notice shall be given by mail, in writing, or electronically transmitted to the last address specified by the person requesting the agency for advanced notice of proposed action that may affect that person. A request for notice is renewable each December. Any notice under this section to any member or agency of the legislative and executive branches shall be given electronically.

(2) The notice required by subsection (1) shall include all of the following:

(a) A statement of the terms or substance of the proposed guideline, a description of the subjects and issues involved, and the proposed effective date of the guideline.

(b) A statement that the addressee may express any views or arguments regarding the proposed guideline or the guideline’s effect on a person.

(c) The address to which written comments may be sent and the date by which comments shall be mailed or electronically transmitted, which date shall not be less than 35 days from the date of the mailing or electronic transmittal of the notice.

(d) A reference to the specific statutory provision about which the proposed guideline states a policy.

24.241 Notice of public hearing before adoption of rule; opportunity to present data, views, questions, and arguments; time, contents, and transmittal of notice; renewal of requests for notices; provisions governing public hearing; presence and participation of certain persons at public hearing required.

Sec. 41. (1) Except as provided in section 44, before the adoption of a rule, an agency, or the office of regulatory reform, shall give notice of a public hearing and offer a person an opportunity to present data, views, questions, and arguments. The notice shall be given within the time prescribed by any applicable statute, or if none, in the manner prescribed in section 42(1).

(2) The notice described in subsection (1) shall include all of the following:

(a) A reference to the statutory authority under which the action is proposed.

(b) The time and place of the public hearing and a statement of the manner in which data, views, questions, and arguments may be submitted by a person to the agency at other times.

(c) A statement of the terms or substance of the proposed rule, a description of the subjects and issues involved, and the proposed effective date of the rule.

(3) The agency, or the office of regulatory reform acting on behalf of an agency, shall transmit copies of the notice to each person who requested the agency in writing or electronically for advance notice of proposed action that may affect the person. If requested, the notice shall be by mail, in writing, or electronically to the last address specified by the person.

(4) The public hearing shall comply with any applicable statute, but is not subject to the provisions governing a contested case.

(5) The head of the promulgating agency or 1 or more persons designated by the head of the agency who have knowledge of the subject matter of the proposed rule shall be present at the public hearing and shall participate in the discussion of the proposed rule.

24.242 Notice of public hearing; publication requirements; submission of copy to office of regulatory reform; publication of notice in Michigan register; distribution of copies of notice of public hearing; meeting of joint committee on administrative rules.

Sec. 42. (1) Except as provided in section 44, at a minimum, an agency, or the office of regulatory reform acting on behalf of the agency, shall publish the notice of public hearing as prescribed in any applicable statute or, if none, the agency, or the office of regulatory reform acting on behalf of the agency, shall publish the notice not less than 10 days and not more than 60 days before the date of the public hearing in at least 3 newspapers of general circulation in different parts of the state, 1 of which shall be in the Upper Peninsula.

(2) Additional methods that may be employed by the agency, or the office of regulatory reform acting on behalf of the agency, depending upon the circumstances, include publication in trade, industry, governmental, or professional publications or posting on the website of the agency or the office of regulatory reform.

(3) In addition to the requirements of subsection (1), the agency shall electronically submit a copy of the notice of public hearing to the office of regulatory reform for publication in the Michigan register. If the office of regulatory reform submitted the notice of public hearing on behalf of the agency, the office of regulatory reform shall publish the notice of public hearing in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall electronically file a copy of the notice of public hearing with the office of regulatory reform. Within 7 days after receipt of the notice of public hearing, the office of regulatory reform shall do all of the following before the public hearing:

- (a) Electronically transmit a copy of the notice of public hearing to the committee.
- (b) Provide notice electronically through publicly accessible internet media.

(4) After the office of regulatory reform electronically transmits a copy of the notice of public hearing to the committee, the committee shall electronically transmit copies of the notice of public hearing, not later than the next business day after receipt of the notice from the office of regulatory reform, to each member of the committee and to the members of the standing committees of the senate and house of representatives that deal with the subject matter of the proposed rule.

(5) After receipt of the notice of public hearing filed under subsection (3), the committee may meet to consider the proposed rule, take testimony, and provide the agency with the committee's informal response to the rule.

24.245 Approval of rules by legislative service bureau and office of regulatory reform; agency reports; regulatory impact statement; fiscal agency reports.

Sec. 45. (1) Except as otherwise provided for in this subsection, the agency shall submit the proposed rule to the legislative service bureau for its formal certification. The submission to the legislative service bureau for formal certification shall be in the form of electronic transmission. If requested by the legislative service bureau, the office of regulatory reform shall also transmit up to 4 paper copies of the proposed rule. The legislative service bureau shall promptly issue a certificate of approval indicating a determination that a proposed rule is proper as to all matters of form, classification, and arrangement. If the legislative service bureau fails to issue a certificate of approval within 21 calendar days after receipt of the submission for formal certification, the office of regulatory reform may issue a certificate of approval. If the submission to the legislative service bureau is returned by the legislative service bureau to the agency before the expiration of the 21-calendar-day time period, the 21-calendar-day time period is tolled until the rule is resubmitted by the agency. The remainder of the 21-calendar-day time period or 6 calendar days, whichever is longer, shall be available for consideration by the legislative service bureau for formal certification of the rule. The office of regulatory reform may approve a proposed rule if it considers the proposed rule to be legal.

(2) Except as provided in subsection (6), after notice is given as provided in this act and before the agency proposing the rule has formally adopted the rule, the agency shall prepare an agency report containing a synopsis of the comments contained in the public hearing record and a copy of the regulatory impact statement required under subsection (3). In the report, the agency shall describe any changes in the proposed rules that were made by the agency after the public hearing. The office of regulatory reform shall transmit by notice of transmittal to the committee copies of the rule, the agency reports, a copy of the regulatory impact statement, and certificates of approval from the legislative service bureau and the office of regulatory reform. The office of regulatory reform shall also electronically submit a copy of the rule, any agency reports required under this subsection, any regulatory impact statements required under subsection (3), and any certificates of approval required under subsection (1) to the committee. The agency shall

electronically transmit to the committee the records described in this subsection within 1 year after the date of the last public hearing on the proposed rule unless the proposed rule is a resubmission under section 45a(7).

(3) Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a regulatory impact statement containing all of the following information:

(a) A comparison of the proposed rule to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

(b) An identification of the behavior and frequency of behavior that the rule is designed to alter.

(c) An identification of the harm resulting from the behavior that the rule is designed to alter and the likelihood that the harm will occur in the absence of the rule.

(d) An estimate of the change in the frequency of the targeted behavior expected from the rule.

(e) An identification of the businesses, groups, or individuals who will be directly affected by, bear the cost of, or directly benefit from the rule.

(f) An identification of any reasonable alternatives to regulation pursuant to the proposed rule that would achieve the same or similar goals.

(g) A discussion of the feasibility of establishing a regulatory program similar to that proposed in the rule that would operate through market-based mechanisms.

(h) An estimate of the cost of rule imposition on the agency promulgating the rule.

(i) An estimate of the actual statewide compliance costs of the proposed rule on individuals.

(j) An estimate of the actual statewide compliance costs of the proposed rule on businesses and other groups.

(k) An identification of any disproportionate impact the proposed rule may have on small businesses because of their size.

(l) An identification of the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule.

(m) An analysis of the costs of compliance for all small businesses affected by the proposed rule, including costs of equipment, supplies, labor, and increased administrative costs.

(n) An identification of the nature and estimated cost of any legal consulting and accounting services that small businesses would incur in complying with the proposed rule.

(o) An estimate of the ability of small businesses to absorb the costs estimated under subdivisions (l) through (n) without suffering economic harm and without adversely affecting competition in the marketplace.

(p) An estimate of the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

(q) An identification of the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

(r) A statement describing the manner in which the agency reduced the economic impact of the rule on small businesses or a statement describing the reasons such a reduction was not feasible.

(s) A statement describing whether and how the agency has involved small businesses in the development of the rule.

(t) An estimate of the primary and direct benefits of the rule.

(u) An estimate of any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the rule.

(v) An estimate of any increase in revenues to state or local governmental units as a result of the rule.

(w) An estimate of any secondary or indirect benefits of the rule.

(x) An identification of the sources the agency relied upon in compiling the regulatory impact statement.

(y) Any other information required by the office of regulatory reform.

(4) The agency shall electronically transmit the regulatory impact statement required under subsection (3) to the office of regulatory reform at least 28 days before the public hearing required pursuant to section 42. Before the public hearing can be held, the regulatory impact statement must be reviewed and approved by the office of regulatory reform. The agency shall also electronically transmit a copy of the regulatory impact statement to the committee before the public hearing and the agency shall make copies available to the public at the public hearing.

(5) The committee shall electronically transmit to the senate fiscal agency and the house fiscal agency a copy of each rule and regulatory impact statement filed with the committee, as well as a copy of the agenda identifying the proposed rules to be considered by the committee. The senate fiscal agency and the house fiscal agency shall analyze each proposed rule for possible fiscal implications that, if the rule were adopted, would result in additional appropriations in the current fiscal year or commit the legislature to an appropriation in a future fiscal year. The senate fiscal agency and the house fiscal agency shall electronically report their findings to the senate and house appropriations committees and to the committee before the date of consideration of the proposed rule by the committee.

(6) Subsections (2), (3), and (4) do not apply to a rule that is promulgated under sections 33, 44, and 48.

24.245a Joint committee on administrative rules; review; filing notice of objection; effect; actions by legislature; filing of rules by office of regulatory reform; effective date of rules; withdrawal and resubmission of rules; "session day" defined.

Sec. 45a. (1) Except as otherwise provided for in subsections (7) and (8), after receipt by the committee of the notice of transmittal specified in section 45(2), the committee has 15 session days in which to consider the rule and to object to the rule by filing a notice of objection approved by a concurrent majority of the committee members or the committee may, by concurrent majority, waive the remaining session days. If the committee waives the remaining session days, the clerk of the committee shall promptly notify the office of regulatory reform of the waiver by electronic transmission. A notice of objection may only be approved by the committee if the committee affirmatively determines by a concurrent majority that 1 or more of the following conditions exist:

(a) The agency lacks statutory authority for the rule.

(b) The agency is exceeding the statutory scope of its rule-making authority.

(c) There exists an emergency relating to the public health, safety, and welfare that would warrant disapproval of the rule.

(d) The rule is in conflict with state law.

(e) A substantial change in circumstances has occurred since enactment of the law upon which the proposed rule is based.

(f) The rule is arbitrary or capricious.

(g) The rule is unduly burdensome to the public or to a licensee licensed by the rule.

(2) If the committee does not file a notice of objection within the time period prescribed in subsection (1) or if the committee waives the remaining session days by concurrent

majority, the office of regulatory reform may immediately file the rule, with the certificate of approval required under section 45(1), with the secretary of state. The rule shall take effect immediately upon its filing unless a later date is indicated within the rule.

(3) If the committee files a notice of objection within the time period prescribed in subsection (1), the committee chair, the alternate chair, or any member of the committee shall cause bills to be introduced in both houses of the legislature simultaneously. Each house shall place the bill or bills directly on its calendar. The bills shall contain 1 or more of the following:

(a) A rescission of a rule upon its effective date.

(b) A repeal of the statutory provision under which the rule was authorized.

(c) A bill staying the effective date of the proposed rule for up to 1 year.

(4) The notice of objection filed under subsection (3) stays the ability of the office of regulatory reform to file the rule with the secretary of state until the earlier of the following:

(a) Fifteen session days after the notice of objection is filed under subsection (3).

(b) The date of the rescission of the issuance of the notice of objection, approved by a concurrent majority of the committee members. The committee may meet to rescind the issuance of the notice of objection under this subdivision. If the committee rescinds the issuance of a notice of objection under this subdivision, the clerk of the committee shall promptly notify the office of regulatory reform by electronic transmission of the rescission.

(5) If the legislation introduced pursuant to subsection (3) is defeated in either house and if the vote by which the legislation failed to pass is not reconsidered in compliance with the rules of that house, or if legislation introduced pursuant to subsection (3) is not adopted by both houses within the time period specified in subsection (4), the office of regulatory reform may file the rule with the secretary of state. The rule shall take effect immediately upon filing with the secretary of state unless a later date is specified within the rule.

(6) If the legislation introduced pursuant to subsection (3) is enacted by the legislature and presented to the governor within the 15-session-day period, the rules do not become effective unless the legislation is vetoed by the governor as provided by law. If the governor vetoes the legislation, the office of regulatory reform may file the rules immediately. The rule shall take effect 7 days after the date of its filing unless a later effective date is indicated within the rule.

(7) An agency may withdraw a proposed rule under the following conditions:

(a) With permission of the committee chair and alternate chair, the agency may withdraw the rule and resubmit it. If permission to withdraw is granted, the 15-session-day time period described in subsection (1) is tolled until the rule is resubmitted, except that the committee shall have at least 6 session days after resubmission to consider the resubmitted rule.

(b) Without permission of the committee chair and alternate chair, the agency may withdraw the rule and resubmit it. If permission to withdraw is not granted, a new and untolled 15-session-day time period described in subsection (1) shall begin upon resubmission of the rule to the committee for consideration.

(8) Subsections (1) through (5) do not apply to rules adopted under sections 33, 44, and 48.

(9) As used in this section only, “session day” means each day in which both the house of representatives and the senate convene in session.

24.251 Amendment and rescission of rules by legislature; introduction of bill.

Sec. 51. If the committee, an appropriate standing committee, or a member of the legislature believes that a promulgated rule or any part thereof is unauthorized, is not within legislative intent, or is inexpedient, the committee or member may introduce a bill at a regular session, or special session if included in a governor’s message, which in effect amends or rescinds the rule.

24.252 Suspension of rules.

Sec. 52. (1) If authorized by concurrent resolution of the legislature, the committee, acting between regular sessions, may suspend a rule or a part of a rule promulgated during the interim between regular sessions.

(2) The committee shall electronically notify the agency promulgating the rule, the secretary of state, and the office of regulatory reform of any rule or part of a rule the committee suspends. A rule or part of a rule suspended under this section shall not be published in the Michigan register or in the Michigan administrative code while suspended.

(3) A rule suspended by the committee continues to be suspended not longer than the end of the next regular legislative session.

Effective date.

Enacting section 1. This amendatory act takes effect January 12, 2005.

Rules transmitted on or after January 12, 2005.

Enacting section 2. This amendatory act applies to rules transmitted to the joint committee on administrative rules on or after January 12, 2005. Rules transmitted to the joint committee on administrative rules before January 12, 2005, shall be processed according to the act as it existed before January 12, 2005.

This act is ordered to take immediate effect.

Approved December 28, 2004.

Filed with Secretary of State December 28, 2004.

[No. 492]

(SB 823)

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending sections 807, 808, 810a, and 821 (MCL 600.807, 600.808, 600.810a, and 600.821), sections 807, 808, and 821 as amended by 2003 PA 40 and section 810a as amended by 2002 PA 715.

The People of the State of Michigan enact:

600.807 Probate court districts.

Sec. 807. A probate court district is created in each of the following described districts when a majority of the electors voting on the question in each affected county approves the probate court district. The districts shall consist as follows:

(a) The first district consists of the counties of Houghton and Keweenaw.

- (b) The fifth district consists of the counties of Schoolcraft and Alger.
- (c) The sixth district consists of the counties of Mackinac and Luce.
- (d) The seventh district consists of the counties of Emmet and Charlevoix.
- (e) The seventeenth district consists of the counties of Clare and Gladwin.
- (f) The eighteenth district consists of the counties of Mecosta and Osceola.

600.808 Question of creation of district; submission to electors; resolution calling for special election; form of question; counting, canvassing, and returning votes; canvassing and certifying results; effect of approval; election of probate judge; reimbursement of costs.

Sec. 808. (1) When each county board of commissioners of a district described in section 807 agrees by resolution to form a district, the question of creation of the district shall be submitted to the electors of the affected counties at the next primary, general, or special election that occurs more than 49 days after the resolution is adopted. A special election for submission of the question may be called by resolution adopted by each county board of commissioners in the proposed district.

(2) The question relative to creating the district shall be in substantially the following form:

“Shall this county join in a probate court district, which will consist of the counties of _____ and _____ if the majority of the electors voting on the question in each affected county approve?

Yes ()

No ()”.

(3) The votes on the question shall be counted, canvassed, and returned in the manner provided by law. The results shall be canvassed and certified by the board of state canvassers in the same manner as provided for state propositions under chapter 31 of the Michigan election law, 1954 PA 116, MCL 168.841 to 168.848.

(4) If approved by a majority of the electors voting on the question in each of the counties affected, those counties shall constitute the probate court district corresponding to the appropriate district described in section 807, and that district becomes effective as provided in section 809 or 810, whichever section results in an earlier effective date.

(5) The election of the probate judge for a probate court district created under this section shall be held as provided in section 811.

(6) The state shall reimburse the affected counties for the additional cost of submitting the question of the district to the electors of the affected counties if the question is submitted to the electors at a primary, general, or special election held after January 2, 2007.

600.810a Arenac, Kalkaska, Crawford, Lake, Iron, and Ontonagon counties; jurisdiction, powers, duties, and title of probate judges; additional probate judges.

Sec. 810a. (1) The probate judges in the counties of Arenac, Kalkaska, Crawford, Lake, Iron, and Ontonagon have the jurisdiction, powers, duties, and title of a district judge within their respective counties, in addition to the jurisdiction, powers, duties, and title of a probate judge.

(2) Beginning January 2, 2007, in addition to the probate judges described in subsection (1), the probate judges in the counties of Alcona, Baraga, Benzie, Missaukee,

Montmorency, Oscoda, and Presque Isle have the jurisdiction, powers, duties, and title of a district judge within their respective counties, in addition to the jurisdiction, powers, duties, and title of a probate judge.

600.821 Probate judges; practice of law; annual salary; county contribution and reimbursement; additional salary; increase in salary.

Sec. 821. (1) The following probate judges shall not engage in the practice of law other than as a judge and shall receive, subject to subsection (6), an annual salary provided in this section:

(a) A probate judge of a county that is not described in section 807.

(b) The probate judge in each probate court district described in section 807 in which a majority of the electors voting on the question in each county of the probate court district has approved or approves creation of the district.

(c) A probate judge in a county having a population of 15,000 or more according to the 1990 federal decennial census, if the county is not part of a probate court district created pursuant to law.

(d) A probate judge who has the jurisdiction, powers, duties, and title of a district judge within his or her respective county pursuant to section 810a.

(2) Each probate judge shall receive an annual salary determined as follows:

(a) A minimum annual salary of the difference between 85% of the salary of a justice of the supreme court and \$45,724.00.

(b) An additional salary of \$45,724.00 paid by the county or by the counties comprising a probate court district. If a probate judge receives a total additional salary of \$45,724.00 from the county, or from the counties comprising a probate court district, and does not receive less than or more than \$45,724.00, including any cost-of-living allowance, the state shall reimburse the county or counties the amount that the county or counties have paid to the judge.

(3) Six thousand dollars of the minimum annual salary provided in subsection (2) shall be paid by the county, or by the counties comprising a probate court district, and the balance of that minimum annual salary shall be paid by the state as a grant to the county or the counties comprising the probate court district. The county, or the counties comprising the probate court district, shall in turn pay that amount to the probate judge. The state shall annually reimburse the county or counties \$6,000.00 for each probate judge to offset the cost of the county or counties required by this section.

(4) The salary provided in this section is full compensation for all services performed by a probate judge, except as otherwise provided by law. In a probate court district, each county of the district shall contribute to the salary in the same proportion as the population of the county bears to the population of the district.

(5) An additional salary determined by the county board of commissioners may be increased during a term of office but shall not be decreased except to the extent of a general salary reduction in all other branches of government in the county. In a county where an additional salary is granted, it shall be paid at the same rate to all probate judges regularly holding court in the county.

(6) An increase in the amount of salary payable to a judge under subsection (1) caused by an increase in the salary payable to a justice of the supreme court resulting from the operation of 1968 PA 357, MCL 15.211 to 15.218, is not effective until February 1 of the year in which the increase in the salary of a justice of the supreme court becomes effective. If an increase in salary becomes effective on February 1 of a year in which an

increase in the salary of a justice of the supreme court becomes effective, the increase is retroactive to January 1 of that year.

Effective date of MCL 600.807 and MCL 600.808.

Enacting section 1. Sections 807 and 808 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.807 and 600.808, as amended by this amendatory act, take effect January 2, 2007.

Approved December 27, 2004.

Filed with Secretary of State December 29, 2004.

[No. 493]

(HB 5364)

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending sections 222, 240, 252g, and 907 (MCL 257.222, 257.240, 257.252g, and 257.907), section 222 as amended by 2002 PA 642, section 240 as amended by 1999 PA 267, section 252g as added by 1981 PA 104, and section 907 as amended by 2004 PA 62, and by adding sections 252i, 252j, 252k, 252l, and 252m.

The People of the State of Michigan enact:

257.222 Registration certificate and certificate of title; issuance; rebuilt, salvage, or scrap certificate of title issued by another state; delivery; manufacture; contents; coat of arms of state; conduct constituting misdemeanor; penalties; certificate of title for certain vehicles to be different in color; contents of legend.

Sec. 222. (1) Except as otherwise provided in this act, the secretary of state shall issue a registration certificate and a certificate of title when registering a vehicle upon receipt of the required fees. The secretary of state shall issue a flood, rebuilt, salvage, or scrap certificate of title for a vehicle brought into this state from another state or jurisdiction that has a flood, rebuilt, salvage, or scrap certificate of title issued by that other state or jurisdiction.

(2) The secretary of state shall deliver the registration certificate to the owner. The certificate shall contain on its face the date issued, the name and address of the owner, the registration number assigned to the vehicle, and a description of the vehicle as determined by the secretary of state.

(3) The certificate of title shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the certificate of title without ready detection. The certificate shall contain all of the following on its face:

(a) The identical information required on the face of the registration certificate.

(b) If the vehicle is a motor vehicle, the number of miles, not including the tenths of a mile, registered on the vehicle's odometer at the time of transfer.

(c) Whether the vehicle is to be used or has been used as a taxi, as a police vehicle, or by a political subdivision of this state, unless the vehicle is owned by a dealer and loaned or leased to a political subdivision of this state for use as a driver education vehicle.

(d) Whether the vehicle is a salvage vehicle.

(e) If the vehicle has previously been issued a rebuilt certificate of title from this state or a comparable certificate of title from any other state or jurisdiction.

(f) Whether the vehicle has been issued a scrap certificate of title from this state or a comparable certificate of title from any other state or jurisdiction.

(g) Whether the vehicle is a flood vehicle or has previously been issued a flood certificate of title from this state or any other state or jurisdiction.

(h) Whether the owner or co-owner or lessee or co-lessee of the vehicle is subject to registration denial under section 219(1)(d).

(i) A statement of the owner's title and of all security interests in the vehicle or in an accessory on the vehicle as set forth in the application.

(j) The date that the application was filed.

(k) Any other information that the secretary of state may require.

(4) The certificate of title shall contain a form for assignment of title or interest and warranty of title by the owner with space for the notation of a security interest in the vehicle and in an accessory on the vehicle, which at the time of a transfer shall be certified and signed, and space for a written odometer mileage statement that is required upon transfer pursuant to section 233a. The certificate of title shall include a description of the proper procedure for transferring the title of a motor vehicle and for maintaining records of that transfer as provided under this act. The certificate of title may also contain other forms that the secretary of state considers necessary to facilitate the effective administration of this act. The certificate shall bear the coat of arms of this state.

(5) The secretary of state shall mail or deliver the certificate of title to the owner or other person as the owner may direct in a separate instrument, in a form prescribed by the secretary of state.

(6) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates a certificate of title or who uses a reproduced, altered, counterfeited, forged, or duplicated certificate of title shall be punished as follows:

(a) If the intent of reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense punishable by imprisonment for 1 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor, punishable by imprisonment for a period

equal to that which could be imposed for the commission of the offense the person had the intent to aid or commit. The court may also assess a fine of not more than \$10,000.00 against the person.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense punishable by imprisonment for not more than 1 year, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both.

(7) The certificate of title for a police vehicle, a vehicle owned by a political subdivision of this state, a salvage vehicle, a rebuilt vehicle, a scrap vehicle, or a flood vehicle shall be different in color from the certificate of title for all other vehicles unless the vehicle is loaned or leased to a political subdivision of this state for use as a driver education vehicle.

(8) A scrap certificate of title shall contain a legend that the vehicle is not to be titled or registered and is to be used for parts or scrap metal only.

(9) A certificate of title shall not be issued for a vehicle that has had a salvage certificate of title unless the certificate of title contains the legend “rebuilt salvage”.

257.240 Liability for use or ownership of vehicle after transfer of endorsed certificate of title; conditions; violation of subsection (2); civil infraction; fine; towing and storage fees.

Sec. 240. (1) The owner of a motor vehicle who has made a bona fide sale by transfer of his or her title or interest and who has delivered possession of the vehicle and the certificate of title to that vehicle properly endorsed to the purchaser or transferee is not liable for any damages or a violation of law that subsequently results from the use or ownership of the vehicle by another, if the owner, other than a licensed dealer, satisfies the conditions prescribed under subsection (2).

(2) The owner of a motor vehicle, other than a licensed dealer, shall satisfy 1 of the following conditions:

(a) Accompany the purchaser of the vehicle to a secretary of state branch office to assure that the title of the vehicle being sold is transferred.

(b) Maintain a record of the sale for not less than 18 months. As used in this subdivision, “record of the sale” means either a photocopy of the reassigned title or a form or document that includes the name, address, driver license number, and signature of the person to whom the vehicle is sold and the purchase price and date of sale of the vehicle.

(3) A person who violates subsection (2) is responsible for a civil infraction and shall be ordered to pay a civil fine of \$15.00.

(4) A person who violates subsection (2) is presumed to be the last titled owner and to be liable for towing fees and daily storage fees for an abandoned motor vehicle.

257.252g Manner of conducting public sale; application of money received; absence of bidders; acquisition of distressed vehicle; application for salvage certificate of title; canceling entry in law enforcement information network.

Sec. 252g. (1) Subject to section 252a(16), a public sale for a vehicle and its contents that has been determined to be abandoned under section 252a or removed under section 252d shall be conducted in the following manner:

(a) It shall be under the control of the police agency or the agency’s designee or the custodian of the vehicle or the custodian’s designee.

(b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or the agency's designee or, if the vehicle is being sold under section 252a(16), the custodian of the vehicle.

(c) Except as otherwise provided in sections 252a(17) and 252b(7), it shall be held not less than 5 days after public notice of the sale has been published.

(d) The public notice shall be published at least once in a newspaper having a general circulation within the county in which the vehicle was abandoned. The public notice shall give a description of the vehicle for sale and shall state the time, date, and location of the sale.

(2) The money received from the public sale of the vehicle shall be applied in the following order of priority:

(a) Towing and storage charges.

(b) Expenses incurred by the police agency or the custodian of the vehicle.

(c) Payment of the \$40.00 abandoned vehicle fee described in section 252f(3)(a).

(d) Any extra money shall be sent to the department of treasury's unclaimed property division to be disbursed as follows:

(i) To the secured party, if any, in the amount of the debt outstanding on the vehicle.

(ii) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the last titled owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the unit of government governing the location from which the vehicle was towed.

(3) If there are no bidders on the vehicle, the police agency or the custodian of the vehicle may do 1 of the following:

(a) Turn the vehicle over to the towing firm or the custodian of the vehicle to satisfy charges against the vehicle. However, if the value of the vehicle does not satisfy the towing fees and accrued daily storage fees, the custodian of the vehicle may collect the balance of those unpaid fees from the last titled owner, subject to section 252i.

(b) Obtain title to the vehicle for the police agency or the unit of government the police agency represents, by doing the following:

(i) Paying the towing and storage charges.

(ii) Applying for title to the vehicle.

(c) Hold another public sale under subsection (1).

(4) A person who acquires ownership of a vehicle under subsection (1) or (3) that has been designated as a distressed vehicle shall apply for a salvage certificate of title within 15 days after obtaining the vehicle.

(5) Upon disposition of the vehicle, the police agency shall provide the secretary of state with the vehicle's disposition and the name of the agency that disposed of it and shall cancel the entry in the law enforcement information network.

257.252i Towing and storage fees.

Sec. 252i. (1) A towing service, custodian of a vehicle, or both, shall not be precluded from the recovery of towing fees or, subject to subsection (2), storage fees from the last titled owner of a vehicle deemed abandoned under section 252a or section 252b, or removed under section 252d.

(2) If a vehicle is released for disposition under section 252b or section 252g, the amount of storage fees that may be collected is whichever 1 of the following is the least amount:

(a) The daily storage rate established by contract or agreement with the law enforcement agency or unit of government that authorized the towing and storage of the vehicle.

(b) The daily storage rate charged by the storage facility.

(c) \$1,000.00.

(3) Subsection (2) does not apply to a commercial vehicle or to a vehicle that is owned or leased by an entity other than an individual.

257.252j Abandoned vehicles; number and placement of vehicles on private property.

Sec. 252j. Sections 252a and 252b do not apply to a vehicle that is owned by the same person who owns the private real property on which the vehicle is located and do not prohibit or preempt a local unit of government from regulating the number and placement of vehicles on private property.

257.252k Towing or removing vehicle without owner's consent; notice; requirements.

Sec. 252k. Except as otherwise provided in section 252l, an owner or lessor of private real property shall post a notice that meets all of the following requirements before authorizing the towing or removal of a vehicle from the real property without the consent of the owner or other person who is legally entitled to possess the vehicle:

(a) The notice shall be prominently displayed at a point of entry for vehicular access to the real property. If the real property lacks curbs or access barriers, not less than 1 notice shall be posted for each 100 feet of road frontage.

(b) The notice clearly indicates in letters not less than 2 inches high on a contrasting background that unauthorized vehicles will be towed away at the owner's expense.

(c) The notice provides the name and telephone number of the towing service responsible for towing or removing vehicles from that property.

(d) The notice is permanently installed with the bottom of the notice located not less than 4 feet from the ground and is continuously maintained on the property for not less than 24 hours before a vehicle is towed or removed.

257.252l Applicability of MCL 257.252k.

Sec. 252l. Section 252k does not apply to either of the following:

(a) Real property that is appurtenant to and obviously part of a single- or dual-family residence.

(b) An instance when notice is personally given to the owner or other legally entitled person in control of a vehicle that the area where the vehicle is parked is reserved or otherwise unavailable to unauthorized vehicles and that the vehicle is subject to towing or removal from the private real property without the consent of the owner or other legally entitled person in control of the vehicle.

257.252m Notification of civil fines and sanctions.

Sec. 252m. For a period of 1 year beginning on the effective date of the amendatory act that added this section, the secretary of state shall insert notification of the civil fines and sanctions that may be imposed for the violation of sections 240 and 252a(1) into all

mailings concerning motor vehicle registration renewal notices and new vehicle title documents.

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

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

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

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

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

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

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

(7) Each district of the district court and each municipal court may establish a schedule of civil fines, costs, and assessments to be imposed for civil infractions that occur within the respective district or city. If a schedule is established, it shall be prominently posted and readily available for public inspection. A schedule need not include all violations that are designated by law or ordinance as civil infractions. A schedule may exclude cases on the basis of a defendant's prior record of civil infractions or traffic offenses, or a combination of civil infractions and traffic offenses.

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

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

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

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

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

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

(14) Effective October 1, 2003, in addition to any civil fines or costs ordered to be paid under this section, the judge or district court magistrate shall order the defendant to pay a justice system assessment of \$40.00 for each civil infraction determination, except for a parking violation or a violation for which the total fine and costs imposed are \$10.00 or less. Upon payment of the assessment, the clerk of the court shall transmit the assessment collected to the state treasury to be deposited into the justice system fund created in

section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment levied under this subsection is not a civil fine for purposes of section 909.

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

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

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2005.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4231 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved December 27, 2004.

Filed with Secretary of State December 29, 2004.

Compiler's note: House Bill No. 4231, referred to in enacting section 2, was filed with the Secretary of State December 29, 2004, and became P.A. 2004, No. 495, Imd. Eff. Dec. 29, 2004.

[No. 494]

(SB 1171)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 8901, 8904, and 8905a (MCL 324.8901, 324.8904, and 324.8905a), section 8904 as amended and section 8905a as added by 1998 PA 15.

The People of the State of Michigan enact:

324.8901 Definitions.

Sec. 8901. As used in this part:

(a) "Litter" means rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris, or other foreign substances or a vehicle that is considered abandoned under section 252a of the Michigan vehicle code, 1949 PA 300, MCL 257.252a.

(b) “Public or private property or water” includes, but is not limited to, any of the following:

(i) The right-of-way of a road or highway, a body of water or watercourse, or the shore or beach of a body of water or watercourse, including the ice above the water.

(ii) A park, playground, building, refuge, or conservation or recreation area.

(iii) Residential or farm properties or timberlands.

(c) “Vehicle” means a motor vehicle registered or required to be registered under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(d) “Vessel” means a vessel registered under part 801.

324.8904 Presumptions.

Sec. 8904. (1) Except as provided in subsection (3) involving litter from a leased vehicle or leased vessel, in a proceeding for a violation of this part involving litter from a motor vehicle or vessel, proof that the particular vehicle or vessel described in the citation, complaint, or warrant was used in the violation, together with proof that the defendant named in the citation, complaint, or warrant was the registered owner of the vehicle or vessel at the time of the violation, gives rise to a rebuttable presumption that the registered owner of the vehicle or vessel was the driver of the vehicle or vessel at the time of the violation.

(2) There is a rebuttable presumption that the driver of a vehicle or vessel is responsible for litter that is thrown, dumped, deposited, placed, or left from the vehicle or vessel on public or private property or water.

(3) In a proceeding for a violation of this part involving litter from a leased motor vehicle or leased vessel, proof that the particular vehicle or vessel described in the citation, complaint, or warrant was used in the violation, together with proof that the defendant named in the citation, complaint, or warrant was the lessee of the vehicle or vessel at the time of the violation, gives rise to a rebuttable presumption that the lessee of the vehicle or vessel was the driver of the vehicle or vessel at the time of the violation.

(4) In a proceeding for a violation of this part involving litter consisting of an abandoned vehicle, proof that the particular vehicle described in the citation, complaint, or warrant was abandoned, and that the defendant named in the citation, complaint, or warrant was the titled owner or lessee of the vehicle at the time it was abandoned, gives rise to a rebuttable presumption that the defendant abandoned the vehicle.

324.8905a Violations as state civil infractions; civil fines; default remedies; exception.

Sec. 8905a. (1) A person who violates this part where the amount of the litter is less than 1 cubic foot in volume is responsible for a state civil infraction and is subject to a civil fine of not more than \$800.00.

(2) A person who violates this part where the amount of the litter is 1 cubic foot or more but less than 3 cubic feet in volume is responsible for a state civil infraction and is subject to a civil fine of not more than \$1,500.00.

(3) Except as provided in subsection (4), a person who violates this part where the amount of the litter is 3 cubic feet or more in volume is responsible for a state civil infraction and is subject to a civil fine of not more than \$2,500.00. A person found to have committed a violation described in this subsection in a subsequent proceeding is subject to a civil fine of not more than \$5,000.00.

(4) A person who violates this part where the litter consists of an abandoned vehicle is responsible for a state civil infraction and is subject to a civil fine of not less than \$500.00 or more than \$2,500.00. A person found to have committed a violation described in this subsection in a subsequent proceeding is subject to a civil fine of not less than \$1,000.00 or more than \$5,000.00. However, the court shall not order the payment of a fine unless the vehicle has been disposed of under section 252g of the Michigan vehicle code, 1949 PA 300, MCL 257.252g.

(5) A default in the payment of a civil fine or costs ordered under this part or an installment of the fine or costs may be remedied by any means authorized under the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

(6) This section does not apply to a violation of section 8903 or 8905.

This act is ordered to take immediate effect.

Approved December 27, 2004.

Filed with Secretary of State December 29, 2004.

[No. 495]

(HB 4231)

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending sections 14, 248, 249, 252a, 252b, 252d, 252e, 252f, 310, 319b, 319g, 320a, and 732 (MCL 257.14, 257.248, 257.249, 257.252a, 257.252b, 257.252d, 257.252e, 257.252f, 257.310, 257.319b, 257.319g, 257.320a, and 257.732), sections 248 and 249 as amended by 2002 PA 642, section 252a as amended by 2002 PA 649, section 252b as amended and sections 252e and 252f as added by 1981 PA 104, section 252d as amended by 2000 PA 76, sections 319b, 320a, and 732 as amended by 2004 PA 362, section 310 as amended by 2003 PA 152, and section 319g as added by 2002 PA 534, and by adding sections 79e and 252h; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

257.14 “Established place of business” defined.

Sec. 14. (1) Except as provided in subsection (2), “established place of business” means the place actually occupied either continuously or at regular periods by a dealer or manu-

facturer where his or her books and records are kept and a large share of his or her business transacted.

(2) Established place of business for a class (a) or class (b) dealer means premises that meet all of the following requirements:

(a) The premises contain, except as otherwise provided in this act, a permanently enclosed building or structure either owned, leased, or rented by a dealer, which is not a residence, tent, temporary stand, or any temporary quarters; the building or structure is continuously occupied in good faith for the purpose of selling, buying, trading, leasing, or otherwise dealing in motor vehicles; all books, records, and files necessary to conduct the business of a class (a) or class (b) dealer are maintained in the building or structure; and the building or structure houses an office of at least 150 square feet in size, equipped with standard office furniture, working utilities, a working restroom, and a working telephone listed in the name of the business on the dealer's license.

(b) The premises have land space of no less than 1,300 square feet to accommodate the display of a minimum of 10 vehicles of the kind and type that the dealer is licensed to sell and an additional 650 square feet for customer parking. The display and customer parking areas shall be adequately surfaced and well-lit during business hours.

(c) The premises are identified by an exterior sign displaying the name of the dealership that is permanently affixed to the building or land with letters clearly visible from a highway.

(d) The premises contain a conspicuous posting of the dealer's regular hours of operation. The posted hours shall be not less than 30 hours per week.

(e) The premises contain a registered repair facility on site for the repair and servicing of motor vehicles of a type sold at the established place of business, unless the dealer has entered into a written servicing agreement with a registered repair facility at a location not to exceed 10 miles' distance from the established place of business. If repairs are conducted pursuant to a servicing agreement, the servicing agreement shall be conspicuously posted in the office.

(f) The premises meet all applicable zoning requirements and municipal requirements.

257.79e "Wholesaler" defined.

Sec. 79e. "Wholesaler" means a person who is engaged in the business of selling used vehicles to or purchasing used vehicles from a licensed motor vehicle dealer and who does not sell or offer for sale motor vehicles of any classification to a person other than a licensed motor vehicle dealer.

257.248 Dealer license; investigation; report; bond or renewal certificate; dealer plates; stipulation as to service of process; prohibited conduct, application, and classification; expiration; conduct not requiring separate or supplemental license.

Sec. 248. (1) The secretary of state shall not grant a dealer license under this section until an investigation is made of the applicant's qualifications under this act, except that this subsection does not apply to license renewals. The secretary of state shall make the investigation within 15 days after receiving the application and make a report on the investigation.

(2) An applicant for a new vehicle dealer or a used or secondhand vehicle dealer or broker license shall include a properly executed bond or renewal certificate with the application. If a renewal certificate is used, the bond is considered renewed for each

succeeding year in the same amount and with the same effect as an original bond. The bond shall be in the sum of \$10,000.00 with good and sufficient surety to be approved by the secretary of state. The bond shall indemnify or reimburse a purchaser, seller, lessee, financing agency, or governmental agency for monetary loss caused through fraud, cheating, or misrepresentation in the conduct of the vehicle business whether the fraud, cheating, or misrepresentation was made by the dealer or by an employee, agent, or salesperson of the dealer. The surety shall make indemnification or reimbursement for a monetary loss only after judgment based on fraud, cheating, or misrepresentation has been entered in a court of record against the licensee. The bond shall also indemnify or reimburse the state for any sales tax deficiency as provided in the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, or use tax deficiency as provided in the use tax act, 1937 PA 94, MCL 205.91 to 205.111, for the year in which the bond is in force. The surety shall make indemnification or reimbursement only after final judgment has been entered in a court of record against the licensee. A dealer or applicant who has furnished satisfactory proof that a bond similar to the bond required by this subsection is executed and in force is exempt from the bond provisions set forth in this subsection. The aggregate liability of the surety shall not exceed the sum of the bond. The surety on the bond may cancel the bond upon giving 30 days' notice in writing to the secretary of state and thereafter is not liable for a breach of condition occurring after the effective date of the cancellation.

(3) An applicant for a new vehicle dealer or a used or secondhand vehicle dealer license shall apply for not less than 2 dealer plates as provided by section 245 and shall include with the application the proper fee as provided by section 803.

(4) As a condition precedent to the granting of a license, a dealer shall file with the secretary of state an irrevocable written stipulation, authenticated by the applicant, stipulating and agreeing that legal process affecting the dealer, served on the secretary of state or a deputy of the secretary of state, has the same effect as if personally served on the dealer. This appointment remains in force as long as the dealer has any outstanding liability within this state.

(5) A person shall not carry on or conduct the business of buying, selling, brokering, leasing, negotiating a lease, or dealing in 5 or more vehicles of a type required to be titled under this act in a 12-month period unless the person obtains a dealer license from the secretary of state authorizing the carrying on or conducting of that business. A person shall not carry on or conduct the business of buying, selling, brokering, leasing, negotiating a lease, or dealing in 5 or more distressed, late model vehicles or salvageable parts to 5 or more of those vehicles in a 12-month period unless the person obtains a used or secondhand vehicle parts dealer, an automotive recycler, or a salvage pool license from the secretary of state or is an insurance company admitted to conduct business in this state. A person shall not carry on or conduct the business of buying 5 or more vehicles in a 12-month period to process into scrap metal or store or display 5 or more vehicles in a 12-month period as an agent or escrow agent of an insurance company unless the person obtains a dealer license from the secretary of state. A vehicle scrap metal processor who does not purchase vehicles or salvageable parts from unlicensed persons is not required to obtain a dealer license. A person from another state shall not purchase, sell, or otherwise deal in distressed, late model vehicles or salvageable parts unless the person obtains a foreign salvage vehicle dealer license from the secretary of state as prescribed under section 248b. A person, including a dealer, shall not purchase or acquire a distressed, late model vehicle or a salvageable part through a salvage pool, auction, or broker without a license as a salvage vehicle agent. The secretary of state shall investigate and seek prosecution, if necessary, of persons allegedly conducting a business without a license.

(6) The application for a dealer license shall be in the form prescribed by the secretary of state and shall be signed by the applicant. In addition to other information as may be required by the secretary of state, the application shall include all of the following:

(a) Name of applicant.

(b) Location of applicant's established place of business in this state, together with written verification from the appropriate governing or zoning authority that the established place of business meets all applicable municipal and zoning requirements.

(c) The name under which business is to be conducted.

(d) If the business is a corporation, the state of incorporation.

(e) Name, address, date of birth, and social security number of each owner or partner and, if a corporation, the name, address, date of birth, and social security number of each of the principal officers.

(f) The county in which the business is to be conducted and the address of each place of business in that county.

(g) If new vehicles are to be sold, the make to be handled. Each new vehicle dealer shall send with the application for license a certification that the dealer holds a bona fide contract to act as factory representative, factory distributor, or distributor representative to sell at retail (the make of vehicle to be sold).

(h) A statement of the previous history, record, and associations of the applicant and of each owner, partner, officer, and director. The statement shall be sufficient to establish to the satisfaction of the secretary of state the business reputation and character of the applicant.

(i) A statement showing whether the applicant has previously applied for a license, the result of the application, and whether the applicant has ever been the holder of a dealer license that was revoked or suspended.

(j) If the applicant is a corporation or partnership, a statement showing whether a partner, employee, officer, or director has been refused a license or has been the holder of a license that was revoked or suspended.

(k) If the application is for a used or secondhand vehicle parts dealer or an automotive recycler, it shall include all of the following:

(i) Evidence that the applicant maintains or will maintain an established place of business.

(ii) Evidence that the applicant maintains or will maintain a police book and vehicle parts purchase and sales and lease records as required under this act.

(iii) Evidence of worker's compensation insurance coverage for employees classified under the North American industrial classification system number 42114, entitled "motor vehicle parts (used) wholesalers" or under the national council on compensation insurance classification code number 3821, entitled "automobile dismantling and drivers", if applicable.

(l) Certification that neither the applicant nor another person named on the application is acting as the alter ego of any other person or persons in seeking the license. For the purpose of this subdivision, "alter ego" means a person who acts for and on behalf of, or in the place of, another person for purposes of obtaining a vehicle dealer license.

(7) A person shall apply separately for a dealer license for each county in which business is to be conducted. Before moving 1 or more of his or her places of business or opening an additional place of business, a dealer shall apply to the secretary of state for and obtain a supplemental dealer license, for which a fee shall not be charged. A supplemental

dealer license shall be issued only for a location, including a tent, temporary stand, or any temporary quarters, that does not meet the definition of an established place of business, within the county in which the dealer's established place of business is located. A dealer license entitles the dealer to conduct the business of buying, selling, leasing, and dealing in vehicles or salvageable parts in the county covered by the license. The dealer license shall also entitle the dealer to conduct at any other licensed dealer's established place of business in this state only the business of buying, selling, leasing, or dealing in vehicles at wholesale.

(8) The secretary of state shall classify and differentiate vehicle dealers according to the type of activity they perform. A dealer shall not engage in activities of a particular classification as provided in this act unless the dealer is licensed in that classification. An applicant may apply for a dealer license in 1 or more of the following classifications:

- (a) New vehicle dealer.
- (b) Used or secondhand vehicle dealer.
- (c) Used or secondhand vehicle parts dealer.
- (d) Vehicle scrap metal processor.
- (e) Vehicle salvage pool operator.
- (f) Distressed vehicle transporter.
- (g) Broker.
- (h) Foreign salvage vehicle dealer.
- (i) Automotive recycler.
- (j) Beginning April 1, 2005, wholesaler.

(9) A dealer license expires on December 31 of the last year for which the license is issued. The secretary of state may renew a dealer license for a period of not more than 4 years upon application and payment of the fee required by section 807.

(10) A dealer may conduct the business of buying, selling, or dealing in motor homes, trailer coaches, trailers, or pickup campers at a recreational vehicle show conducted at a location in this state without obtaining a separate or supplemental license under subsection (7) if all of the following apply:

- (a) The dealer is licensed as a new vehicle dealer or used or secondhand vehicle dealer.
- (b) The duration of the recreational vehicle show is not more than 14 days.

(c) Not less than 14 days before the beginning date of the recreational vehicle show, the show producer notifies the secretary of state, in a manner and form prescribed by the secretary of state, that the recreational vehicle show is scheduled, the location, dates, and times of the recreational vehicle show, and the name, address, and dealer license number of each dealer participating in the recreational vehicle show.

257.249 Denial, suspension, or revocation of license as dealer; grounds.

Sec. 249. The secretary of state may deny the application of a person for a license as a dealer and refuse to issue the person a license as a dealer, or may suspend or revoke a license already issued, if the secretary of state finds that 1 or more of the following apply:

- (a) The applicant or licensee has made a false statement of a material fact in his or her application.
- (b) The applicant or licensee has not complied with the provisions of this chapter or a rule promulgated under this chapter.

(c) The applicant or licensee has sold or leased or offered for sale or lease a new vehicle of a type required to be registered under this act without having authority of a contract with a manufacturer or distributor of the new vehicle.

(d) The applicant or licensee has been guilty of a fraudulent act in connection with selling, leasing, or otherwise dealing in vehicles of a type required to be registered under this act.

(e) The applicant or licensee has entered into or is about to enter into a contract or agreement with a manufacturer or distributor of vehicles of a type required to be registered under this act that is contrary to any provision of this act.

(f) The applicant or licensee has no established place of business that is used or will be used for the purpose of selling, leasing, displaying, or offering for sale or lease or dealing in vehicles of a type required to be registered, and does not have proper servicing facilities.

(g) The applicant or licensee is a corporation or partnership, and a stockholder, officer, director, or partner of the applicant or licensee has been guilty of any act or omission that would be cause for refusing, revoking, or suspending a license issued to the stockholder, officer, director, or partner as an individual.

(h) The applicant or licensee has possessed a vehicle or a vehicle part that has been confiscated under section 415 of the Michigan penal code, 1931 PA 328, MCL 750.415. The secretary of state shall conduct a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, before the secretary of state takes any action under this subdivision.

(i) The applicant or licensee has been convicted under section 415 of the Michigan penal code, 1931 PA 328, MCL 750.415.

(j) The applicant or licensee has been convicted of violating 1986 PA 119, MCL 257.1351 to 257.1355.

(k) The established place of business of the applicant or licensee is not in compliance with all applicable zoning requirements and municipal requirements.

(l) The applicant or licensee has engaged in the business of buying, selling, trading, or exchanging new, used, or secondhand motor vehicles or has offered to buy, sell, trade, or exchange, or participate in the negotiation thereof, or attempted to buy, sell, trade, or exchange any motor vehicle or interest in any motor vehicle or any written instrument pertaining to a motor vehicle on a Sunday, as prohibited by 1953 PA 66, MCL 435.251 to 435.254.

257.252a Abandoned vehicle; presumption of responsibility; violation; penalty; “abandoned vehicle” defined; duties of police agency; contest by owner; hearing; request; fee; towing and storage charges; obtaining release of vehicle; public sale; inability to determine ownership of abandoned vehicle; entry into law enforcement information network.

Sec. 252a. (1) A person shall not abandon a vehicle in this state. It is presumed that the last titled owner of the vehicle is responsible for abandoning the vehicle unless the person provides a record of sale as that term is defined in section 240. A person who violates this subsection and who fails to redeem the vehicle before disposition of the vehicle under section 252g is responsible for a civil infraction and shall be ordered to pay a civil fine of \$50.00.

(2) As used in this section and sections 252a through 252l, “abandoned vehicle” means either of the following:

(a) A vehicle that has remained on private property without the consent of the owner.

(b) A vehicle that has remained on public property for a period of not less than 48 hours, or on a state trunk line highway as described in section 1 of 1951 PA 51, MCL 247.651, as follows:

(i) If a valid registration plate is affixed to the vehicle, for a period of not less than 18 hours.

(ii) If a valid registration plate is not affixed to the vehicle.

(3) If a vehicle has remained on public property for the period of time described in subsection (2)(b) so that it qualifies as abandoned, a police agency having jurisdiction over the vehicle or the agency's designee shall determine whether the vehicle has been reported stolen and may affix a written notice to the vehicle. The written notice shall contain the following information:

(a) The date and time the notice was affixed.

(b) The name and address of the police agency taking the action.

(c) The name and badge number of the police officer affixing the notice.

(d) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.

(e) The year, make, and vehicle identification number of the vehicle, if available.

(4) If the vehicle is an abandoned vehicle, the police agency or the agency's designee may have the towing agency take the vehicle into custody.

(5) A police agency that has received a vehicle taken into custody as abandoned shall do all of the following:

(a) Recheck to determine if the vehicle has been reported stolen.

(b) Within 24 hours after the vehicle is taken into custody, enter the vehicle as abandoned into the law enforcement information network, and notify the secretary of state through the law enforcement information network that the vehicle has been taken into custody as abandoned. Each notification shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle, if available.

(ii) The address or approximate location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The name and address of the police agency that had the vehicle taken into custody.

(v) The name and business address of the custodian of the vehicle.

(vi) The name of the court that has jurisdiction over the case.

(c) Within 7 days after receiving notice under subdivision (b) that the vehicle has been taken into custody, the secretary of state shall do both of the following:

(i) Send to the last titled owner and secured party, as shown by the records of the secretary of state as described in section 221 or 237, by first-class mail or personal service, notice that the vehicle is considered abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(A) The year, make, and vehicle identification number of the vehicle if available.

(B) The address or approximate location from which the vehicle was taken into custody.

(C) The date on which the vehicle was taken into custody.

(D) The name and address of the police agency that had the vehicle taken into custody.

(E) The name and business address of the custodian of the vehicle.

(F) The procedure to redeem the vehicle.

(G) The procedure to contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees.

(H) A form petition that the owner may file in person or by mail with the specified court that requests a hearing on the police agency's action.

(I) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(ii) Enter the information described in subparagraph (i) on a website maintained by the department for public use in locating vehicles that are removed under this section as abandoned. The department shall maintain the data on the website for 1 year or until the vehicle is disposed of under this act, whichever occurs first.

(6) The owner may contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice described in subsection (5)(c) within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted under sections 252e and 252f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the \$40.00 plus the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying a fee of \$40.00 to the court and the accrued towing and storage fees instead of posting the towing and storage bond.

(7) If the owner does not request a hearing under subsection (6), he or she may obtain the release of the vehicle by paying a fee of \$40.00 and the accrued towing and storage fees to the custodian of the vehicle. The custodian of the vehicle shall forward \$25.00 of the fee to the secretary of state within 30 days after receipt in a manner prescribed by the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.

(8) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice described in subsection (5)(c), the secured party may obtain the release of the vehicle by paying a \$40.00 fee plus the accrued charges to the custodian of the vehicle. The custodian of the vehicle shall forward \$25.00 of the fee to the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.

(9) If a vehicle has remained on private property without the consent of the property owner, the owner of the private property may have the vehicle taken into custody as an abandoned vehicle by contacting a local towing agency.

(10) Before removing the vehicle from private property, the towing agency shall notify a police agency having jurisdiction over the vehicle that the vehicle is being removed. The police agency shall determine if the vehicle has been reported stolen and have the vehicle entered into the law enforcement information network as an abandoned vehicle.

(11) Within 24 hours after taking the abandoned vehicle into custody, the police agency shall notify the secretary of state through the law enforcement information network that the vehicle has been taken into custody as abandoned. Each notification shall contain the following information:

(a) The year, make, and vehicle identification number of the vehicle if available.

(b) The address or approximate location from which the vehicle was taken into custody.

(c) The date on which the vehicle was taken into custody.

(d) The name and address of the police agency that had the vehicle taken into custody.

(e) The name and business address of the custodian of the vehicle.

(f) The name of the court that has jurisdiction over the case.

(12) Within 7 days after being notified under subsection (11), the secretary of state shall do both of the following:

(a) Send to the owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle is considered abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle if available.

(ii) The location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The name of the towing agency that had the vehicle taken into custody.

(v) The business address of the custodian of the vehicle.

(vi) The procedure to redeem the vehicle.

(vii) The procedure to contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees.

(viii) A form petition that the owner may file in person or by mail with the specified court that requests a hearing on the custodian's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(b) Enter the information described in subdivision (a) on a website maintained by the department for public use in locating vehicles that are removed under this section as abandoned.

(13) The owner may contest the fact that the vehicle is abandoned or, unless the towing fees and daily storage fees are established by contract with the local governmental unit or local law enforcement agency and comply with section 252i, the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted under section 252f. An owner who requests a hearing may obtain release of the vehicle by posting with the court a towing and storage bond in an amount equal to \$40.00 plus the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying a fee of \$40.00 to the court plus the towing and storage fees instead of posting the towing and storage bond.

(14) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying a fee of \$40.00 plus the accrued charges to the custodian of the vehicle. The custodian shall forward \$25.00 of the fee collected under this subsection to the secretary of state within 30 days after receipt in a manner prescribed by the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.

(15) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying a fee of \$40.00 and the accrued towing and storage fees to the custodian of the vehicle. The custodian shall forward \$25.00 of the fee collected under this subsection to the secretary

of state within 30 days after receipt in a manner prescribed by the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.

(16) Not less than 20 days after the disposition of the hearing described in subsection (6) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency if the abandoned vehicle is found on public property, or the custodian of the vehicle if the vehicle is found on private property, shall offer the vehicle for sale at a public sale under section 252g.

(17) If the ownership of a vehicle that is considered abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state as described in section 221 or 237 does not reveal ownership, the police agency may sell the vehicle at public sale as provided in section 252g not less than 30 days after public notice of the sale has been published.

(18) The secretary of state shall release a vehicle for disposition under section 252b or 252g within 45 days after the vehicle is entered into the law enforcement information network as an abandoned vehicle.

257.252b Registered and unregistered abandoned scrap vehicles; duties of police agency; release of vehicle; certificate of title or certificate of scrapping; release form; retention of records and photographs; taking registered abandoned scrap vehicle into custody; contest by registered owner; hearing; request; obtaining release of vehicle; fee.

Sec. 252b. (1) As used in this section:

(a) “Registered abandoned scrap vehicle” means a vehicle that meets all of the following requirements:

(i) Is on public or private property.

(ii) Is 7 or more years old.

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 683 would exceed the fair market value of that vehicle.

(iv) Is currently registered or titled in the state of Michigan or displays current year registration plates from another state.

(b) “Unregistered abandoned scrap vehicle” means a vehicle that meets all of the following requirements:

(i) Is on public or private property.

(ii) Is 7 or more years old.

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 683 would exceed the fair market value of that vehicle.

(iv) Is not currently registered in this state and does not display current year registration plates from another state.

(2) A police agency or the agency’s designee or, if the vehicle is on private property, the property owner may have an unregistered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Take 2 photographs of the vehicle.

(c) Make a report to substantiate the vehicle as an unregistered abandoned scrap vehicle. The report shall contain the following information:

(i) The year, make, and vehicle identification number if available.

(ii) The date of abandonment.

(iii) The location of abandonment.

(iv) A detailed listing of the damage or the missing equipment.

(v) The reporting officer's name and title.

(vi) The location where the vehicle is being held.

(d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

(3) Within 24 hours, excluding Saturday, Sunday, and legal holidays, after taking the vehicle into custody, the police agency or the agency's designee shall complete a release form and release the vehicle to the towing service or a used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit that release form to the secretary of state and apply for a certificate of scrapping. Upon receipt of the release form and application, the secretary of state shall issue a certificate of title or a certificate of scrapping.

(4) The release form described in subsection (3) shall be furnished by the secretary of state and shall include a certification executed by the applicable police agency or the agency's designee when the abandoned scrap vehicle is released. The certification shall state that the police agency has complied with all the requirements of subsection (2)(b) and (c).

(5) The secretary of state shall retain the records relating to an abandoned scrap vehicle for not less than 2 years. The 2 photographs taken under subsection (2)(b) shall be retained by the police agency or the agency's designee for not less than 2 years. After the certificate of scrapping has been issued, a certificate of title for the vehicle shall not be issued again.

(6) A police agency or the agency's designee or, if the vehicle is on private property, the property owner may have a registered abandoned scrap vehicle taken into custody, in which case the police agency or the towing service shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Take 2 photographs of the vehicle.

(c) Make a report to substantiate the vehicle as a registered abandoned scrap vehicle. The report shall contain the following information:

(i) The year, make, and vehicle identification number if available.

(ii) The date of abandonment.

(iii) The location of abandonment.

(iv) A detailed listing of the damage or the missing equipment.

(v) The reporting individual's name and title.

(vi) The location where the vehicle is being held.

(d) Within 24 hours after taking the vehicle into custody, cause the vehicle to be entered into the law enforcement information network.

(7) Within 7 days after taking the vehicle into custody, the secretary of state shall send to the last titled owner and secured party, as shown by the records of the secretary of

state, by first-class mail or personal service, notice that the vehicle is considered abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

- (a) The year, make, and vehicle identification number of the vehicle if available.
 - (b) The address or approximate location from which the vehicle was taken into custody.
 - (c) The date on which the vehicle was taken into custody.
 - (d) The name and address of the police agency that had the vehicle taken into custody. If the vehicle was towed from private property, the notice shall contain the name and address of the custodian of the vehicle.
 - (e) The business address of the custodian of the vehicle.
 - (f) The procedure to redeem the vehicle.
 - (g) The name of the court that has jurisdiction of the case.
 - (h) The procedure to contest the fact that the vehicle is abandoned or the reasonableness of the towing fees and daily storage fees.
 - (i) A form petition that the owner may file in person or by mail with the specified court that requests a hearing on the custody of the vehicle.
 - (j) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the termination of all rights of the owner and the secured party to the vehicle.
- (8) The registered owner of a registered abandoned scrap vehicle may contest the fact that the vehicle is abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice in subsection (7) within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted under section 252f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond equal to the \$40.00 plus the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying a fee of \$40.00 plus the towing and storage fees to the court instead of posting the towing and storage bond.
- (9) If the owner does not request a hearing under subsection (7), he or she may obtain the release of the vehicle by paying a fee of \$40.00 plus the accrued charges to the custodian of the vehicle. The custodian shall forward \$25.00 of the fee collected under this subsection to the secretary of state within 30 days after receipt in a manner prescribed by the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.
- (10) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice described in subsection (7), the secured party may obtain the release of the vehicle by paying a fee of \$40.00 plus the accrued charges to the custodian of the vehicle. The custodian shall forward \$25.00 of the fee collected under this subsection to the secretary of state within 30 days after receipt in a manner prescribed by the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.
- (11) Not less than 20 days after the disposition of the hearing described in subsection (8), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (7), the police agency or the agency's designee shall follow the procedures established in subsections (3) to (5).

257.252d Removal of vehicle from public or private property to place of safekeeping; circumstances; arrival of owner; duties of police agency.

Sec. 252d. (1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the registered owner of the vehicle in any of the following circumstances:

(a) If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public.

(b) If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.

(c) If a vehicle is parked in a posted tow away zone.

(d) If there is reasonable cause to believe that the vehicle or any part of the vehicle is stolen.

(e) If the vehicle must be seized to preserve evidence of a crime, or if there is reasonable cause to believe that the vehicle was used in the commission of a crime.

(f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or man-made disaster, or other emergency.

(g) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impedes the movement of another vehicle.

(h) If the vehicle is stopped, standing, or parked in a space designated as parking for persons with disabilities and is not permitted by law to be stopped, standing, or parked in a space designated as parking for persons with disabilities.

(i) If the vehicle is located in a clearly identified access aisle or access lane immediately adjacent to a space designated as parking for persons with disabilities.

(j) If the vehicle is interfering with the use of a ramp or a curb-cut by persons with disabilities.

(2) If the owner or other person who is legally entitled to possess the vehicle arrives at the location where a vehicle is located before the actual towing or removal of the vehicle, the vehicle shall be disconnected from the tow truck, and the owner or other person who is legally entitled to possess the vehicle may take possession of the vehicle and remove it without interference upon the payment of the reasonable service fee, for which a receipt shall be provided.

(3) A police agency that authorizes the removal of a vehicle under subsection (1) shall do all of the following:

(a) Check to determine if the vehicle has been reported stolen.

(b) Follow the procedures set forth in section 252a.

257.252e Jurisdiction to determine propriety of police action; venue in district court; use of bond to pay towing or storage fees.

Sec. 252e. (1) The following courts have jurisdiction to determine if a police agency has acted properly in processing a vehicle under section 252a, 252b(6) to (11), or 252d:

(a) The district court.

(b) A municipal court.

(2) The court specified in the notice prescribed in section 252a(5)(b) or 252b(7) or as provided in section 252d(3)(b) shall be the court that has territorial jurisdiction at the

location from where the vehicle was removed or deemed abandoned. Venue in the district court shall be governed by section 8312 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8312.

(3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure release of the vehicle under section 252a, 252b, or 252d shall be used to pay the towing and storage fees.

257.252f Filing petition; hearing; notice; burden; decision.

Sec. 252f. (1) Upon the filing of a petition prescribed in section 252a, 252b, or 252d, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:

(a) Schedule a hearing within 30 days for the purpose of determining whether the police agency acted properly.

(b) Notify the owner, towing service, custodian of the vehicle, and police agency of the time and place of the hearing.

(2) At the hearing specified in subsection (1) the police agency shall have the burden of showing by a preponderance of the evidence that it has complied with the requirements of this act in processing the abandoned vehicle or vehicle removed under section 252d.

(3) After the hearing, the court shall make a decision that includes 1 or more of the following:

(a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 252d, and an order providing a period of 20 days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within 20 days, the police agency shall dispose of the vehicle under section 252b or 252g. The court shall forward \$25.00 of the fee collected under section 252b or 252g to the secretary of state within 30 days after the court's decision in a manner prescribed by the secretary of state. The towing and storage fees and \$15.00 of the fee collected under section 252b or 252g shall be forwarded to the towing agency.

(b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 252d. After making the finding, the court shall issue an order directing that the vehicle immediately be released to the owner, and that the police agency is responsible for the accrued towing and storage charges. The court shall also order any fee or bond posted by the owner to be returned to the owner.

(c) A finding that the towing fees and daily storage fees were reasonable.

(d) A finding that the towing fees and daily storage fees were unreasonable and issue an order directing an appropriate reduction.

257.252h Abandoned vehicle fund; creation; sources of funding; investment; interest and earnings; money remaining in fund; expenditures.

Sec. 252h. (1) The abandoned vehicle fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and other earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department of state shall expend money from the fund, upon appropriation, to administer the provisions of this act relating to abandoned vehicles.

257.310 Operator's or chauffeur's license; issuance; motorcycle indorsement or vehicle group designation or indorsement application; contents of license; digitized license; unlawful acts; penalties; temporary driver's permit; medical data or anatomical gift; designation of patient advocate or emancipated status; duplicates of license.

Sec. 310. (1) The secretary of state shall issue an operator's license to each person licensed as an operator and a chauffeur's license to each person licensed as a chauffeur. An applicant for a motorcycle indorsement under section 312a or a vehicle group designation or indorsement shall first qualify for an operator's or chauffeur's license before the indorsement or vehicle group designation application is accepted and processed. On and after July 1, 2003, an original license or the first renewal of an existing license issued to a person less than 21 years of age shall be portrait or vertical in form and a license issued to a person 21 years of age or over shall be landscape or horizontal in form.

(2) The license issued under subsection (1) shall contain all of the following information:

(a) The distinguishing number permanently assigned to the licensee.

(b) The full name, date of birth, address of residence, height, eye color, sex, image, and signature of the licensee.

(c) A place for the licensee to indicate 1 or more of the following:

(i) The blood type of the licensee.

(ii) Immunization data of the licensee.

(iii) Medication data of the licensee.

(iv) A statement that the licensee is deaf.

(v) A statement that the licensee is an organ and tissue donor under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(vi) Emergency contact information of the licensee.

(vii) A sticker or decal as specified by the secretary of state to indicate that the licensee has designated 1 or more patient advocates in accordance with section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506, or a statement that the licensee carries an emergency medical information card.

(d) If the licensee has made a statement described in subdivision (c)(v), the signature of the licensee following the indication of his or her organ and tissue donor intent identified in subdivision (c)(v), along with the signature of at least 1 witness.

(e) The sticker or decal described in subdivision (c)(vii) may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing the emergency medical information card, but shall meet the specifications of the secretary of state. The emergency medical information card may contain the information described in subdivision (c)(vi), information concerning the licensee's patient advocate designation, other emergency medical information, or an indication as to where the licensee has stored or registered emergency medical information.

(f) Beginning July 1, 2003, in the case of a licensee who is less than 18 years of age at the time of issuance of the license, the date on which the licensee will become 18 years of age and 21 years of age.

(g) Beginning July 1, 2003, in the case of a licensee who is at least 18 years of age but less than 21 years of age at the time of issuance of the license, the date on which the licensee will become 21 years of age.

(3) Except as otherwise required in this chapter, other information required on the license pursuant to this chapter may appear on the license in a form prescribed by the secretary of state.

(4) The license shall not contain a fingerprint or finger image of the licensee.

(5) A digitized license may contain an identifier for voter registration purposes. The digitized license may contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the person's driver license number, birth date, license expiration date, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the person's name, address, driving record, or other personal identifier. The license shall identify the encoded information.

(6) The license shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the license without ready detection. In addition, a license with a vehicle group designation shall contain the information required under 49 CFR part 383.

(7) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates a license photograph, the negative of the photograph, image, license, or electronic data contained on a license or a part of a license or who uses a license, image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated is subject to 1 of the following:

(a) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use is to commit or aid in the commission of an offense that is a felony punishable by imprisonment for 10 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 10 years or a fine of not more than \$20,000.00, or both.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use is to commit or aid in the commission of an offense that is a felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by imprisonment for 6 months or more, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$10,000.00, or both.

(c) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use is to commit or aid in the commission of an offense that is a misdemeanor punishable by imprisonment for less than 6 months, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(8) Except as provided in subsection (16), a person who sells, or who possesses with the intent to deliver to another, a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(9) Except as provided in subsection (16), a person who is in possession of 2 or more reproduced, altered, counterfeited, forged, or duplicated license photographs, negatives of the photograph, images, licenses, or electronic data contained on a license or part of a

license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(10) Except as provided in subsection (16), a person who is in possession of a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(11) Subsections (7)(a) and (b), (8), and (9) do not apply to a minor whose intent is to violate section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(12) The secretary of state, upon determining after an examination that an applicant is mentally and physically qualified to receive a license, may issue the applicant a temporary driver's permit. The temporary driver's permit entitles the applicant, while having the permit in his or her immediate possession, to drive a motor vehicle upon the highway for a period not exceeding 60 days before the secretary of state has issued the applicant an operator's or chauffeur's license. The secretary of state may establish a longer duration for the validity of a temporary driver's permit if necessary to accommodate the process of obtaining a background check that is required for an applicant by federal law.

(13) An operator or chauffeur may indicate on the license in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, or a statement that the licensee is deaf, or a statement that the licensee is an organ and tissue donor and has made an anatomical gift pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(14) An operator or chauffeur may indicate on the license in a place designated by the secretary of state that he or she has designated a patient advocate in accordance with sections 5506 to 5513 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5513.

(15) If the applicant provides proof to the secretary of state that he or she is a minor who has been emancipated pursuant to 1968 PA 293, MCL 722.1 to 722.6, the license shall bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

(16) Subsections (8), (9), and (10) do not apply to a person who is in possession of 1 or more photocopies, reproductions, or duplications of a license to document the identity of the licensee for a legitimate business purpose.

257.319b Suspension or revocation of vehicle group designations on operator's or chauffeur's license; notice of conviction, bond forfeiture, civil infraction determination, violation of law, or refusal to submit to chemical test; period of suspension or revocation; denial, cancellation, or revocation of hazardous material indorsement; notice of security risk; 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 while the person was operating a commercial motor vehicle, or a law of another state substantially corresponding to a law of this state, or notice that the person has refused to submit to a chemical test of his or

her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, breath, or urine while the person was operating a commercial motor vehicle as required by a law or local ordinance of this or another state. The period of suspension or revocation is as follows:

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

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

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

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

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

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

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

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

(i) Three serious traffic violations.

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

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

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

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

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

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

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

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

(d) Suspension for 3 years if the person is convicted of or found responsible for an offense enumerated in subdivision (c)(i) to (vii) in which a commercial motor vehicle was

used if the vehicle was carrying hazardous material required to have a placard pursuant to 49 CFR parts 100 to 199.

(e) Revocation for life, but with eligibility for reissue of a group vehicle designation after not less than 10 years and after approval by the secretary of state, if the person is convicted of or found responsible for 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), (7), or (8), 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) Effective October 1, 2005, 2 violations of operating a commercial motor vehicle in violation of a suspension, revocation, denial, or cancellation that was imposed for previous violations committed while operating a commercial motor vehicle.

(vi) Effective October 1, 2005, 2 violations of causing a fatality through the negligent or criminal operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, motor vehicle homicide, and negligent homicide.

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

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

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

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

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

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

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

(3) The secretary of state shall immediately suspend all vehicle group designations on a person's operator's or chauffeur's license upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or adminis-

trative tribunal has found the person responsible, for a violation of section 319d(4) or 319f, a local ordinance substantially corresponding to section 319d(4) or 319f, or a law or local ordinance of another state, the United States, Canada, Mexico, or a local jurisdiction of either of these countries substantially corresponding to section 319d(4) or 319f, while operating a commercial motor vehicle. The period of suspension or revocation is as follows:

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

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

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

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

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

(4) As used in this section:

(a) “Felony in which a commercial motor vehicle was used” means a felony during the commission of which the person convicted operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

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

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

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

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

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

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

(ii) Careless driving.

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

(iv) Improper lane use.

(v) Following too closely.

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

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

(viii) Effective October 1, 2005, driving a commercial motor vehicle while in possession of an operator’s or chauffeur’s license that has a vehicle group designation but does not

have the appropriate vehicle group designation or indorsement required for the specific vehicle group being operated or the passengers or type of cargo being transported.

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

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

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

(7) Effective October 1, 2005, a conviction, bond forfeiture, or civil infraction determination, or notice that a court or administrative tribunal has found a person responsible for a violation described in this subsection while the person was operating a noncommercial motor vehicle counts against the person who holds a license to operate a commercial motor vehicle the same as if the person had been operating a commercial motor vehicle at the time of the violation. For the purpose of this subsection, a noncommercial motor vehicle does not include a recreational vehicle used off-road. This subsection applies to the following state law violations or a local ordinance substantially corresponding to any of those violations or a law of another state or out-of-state jurisdiction substantially corresponding to any of those violations:

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

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

(c) Leaving the scene of an accident.

(d) Using a vehicle to commit a felony.

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

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

257.319g Prohibitions; violations; civil infraction.

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 CFR 392.10 or 392.11, as adopted by section 1a of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11a.

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

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

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

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

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

257.320a Recording date of conviction, civil infraction determination, or probate court disposition and number of points; formula; interview; violation committed in another state.

Sec. 320a. (1) Until October 1, 2005, within 10 days after the receipt of a properly prepared abstract from this state or another state, or, beginning October 1, 2005, within 5 days after the receipt of a properly prepared abstract from this state or another state, the secretary of state shall record the date of conviction, civil infraction determination, or probate court disposition, and the number of points for each, based on the following formula, except as otherwise provided in this section and section 629c:

- (a) Manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle, ORV, or snowmobile..... 6 points
- (b) A violation of section 601b(2) or (3), 601c(1) or (2), or 653a(3) or (4)..... 6 points
- (c) A violation of section 625(1), (4), (5), (7), or (8), section 81134 or 82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127, or a law or ordinance substantially corresponding to section 625(1), (4), (5), (7), or (8) or section 81134 or 82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127..... 6 points
- (d) Failing to stop and disclose identity at the scene of an accident when required by law 6 points
- (e) Operating a motor vehicle in violation of section 626..... 6 points
- (f) Fleeing or eluding an officer 6 points
- (g) A violation of section 627(9) pertaining to speed in a work zone described in that section by exceeding the lawful maximum by more than 15 miles per hour 5 points
- (h) A violation of any law other than the law described in subdivision (g) or ordinance pertaining to speed by exceeding the lawful maximum by more than 15 miles per hour 4 points
- (i) A violation of section 625(3) or (6), section 81135 or 82127(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 and 324.82127, or a law or ordinance substantially corresponding to section 625(3) or (6) or section 81135 or 82127(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 and 324.82127..... 4 points
- (j) A violation of section 626a or a law or ordinance substantially corresponding to section 626a 4 points
- (k) A violation of section 653a(2) 4 points
- (l) A violation of section 627(9) pertaining to speed in a work zone described in that section by exceeding the lawful maximum by more than 10 but not more than 15 miles per hour..... 4 points
- (m) A violation of any law other than the law described in subdivision (l) or ordinance pertaining to speed by exceeding the lawful maximum by more than 10 but not more than 15 miles per hour or careless driving in violation of section 626b or a law or ordinance substantially corresponding to section 626b..... 3 points

- (n) A violation of section 627(9) pertaining to speed in a work zone described in that section by exceeding the lawful maximum by 10 miles per hour or less 3 points
 - (o) A violation of any law other than the law described in subdivision (n) or ordinance pertaining to speed by exceeding the lawful maximum by 10 miles per hour or less 2 points
 - (p) Disobeying a traffic signal or stop sign, or improper passing..... 3 points
 - (q) A violation of section 624a, 624b, or a law or ordinance substantially corresponding to section 624a or 624b 2 points
 - (r) A violation of section 310e(4) or (6) or a law or ordinance substantially corresponding to section 310e(4) or (6) 2 points
 - (s) All other moving violations pertaining to the operation of motor vehicles reported under this section 2 points
 - (t) A refusal by a person less than 21 years of age to submit to a preliminary breath test required by a peace officer under section 625a..... 2 points
- (2) Points shall not be entered for a violation of section 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.
- (3) Points shall not be entered for bond forfeitures.
- (4) Points shall not be entered for overweight loads or for defective equipment.
- (5) If more than 1 conviction, civil infraction determination, or probate court disposition results from the same incident, points shall be entered only for the violation that receives the highest number of points under this section.
- (6) If a person has accumulated 9 points as provided in this section, the secretary of state may call the person in for an interview as to the person’s driving ability and record after due notice as to time and place of the interview. If the person fails to appear as provided in this subsection, the secretary of state shall add 3 points to the person’s record.
- (7) If a person violates a speed restriction established by an executive order issued during a state of energy emergency as provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of state shall enter points for the violation pursuant to subsection (1).
- (8) The secretary of state shall enter 6 points upon the record of a person whose license is suspended or denied pursuant to section 625f. However, if a conviction, civil infraction determination, or probate court disposition results from the same incident, additional points for that offense shall not be entered.
- (9) If a Michigan driver commits a violation in another state that would be a civil infraction if committed in Michigan, and a conviction results solely because of the failure of the Michigan driver to appear in that state to contest the violation, upon receipt of the abstract of conviction by the secretary of state, the violation shall be noted on the driver’s record, but no points shall be assessed against his or her driver’s license.

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

Sec. 732. (1) Each municipal judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with or cited for a violation of this act

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

(a) Until October 1, 2005, 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, or, beginning October 1, 2005, within 5 days after a conviction, forfeiture of bail, or entry of a civil infraction determination or default judgment upon a charge of or citation for violating or attempting to violate this act or a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways.

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

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

(2) If a city or village department, bureau, or person is authorized to accept a payment of money as a settlement for a violation of a local ordinance substantially corresponding to this act, the city or village department, bureau, or person shall send a full report of each case in which a person pays any amount of money to the city or village department, bureau, or person to the secretary of state upon a form prescribed by the secretary of state.

(3) The abstract or report required under this section shall be made upon a form furnished by the secretary of state. An abstract shall be certified by signature, stamp, or facsimile signature of the person required to prepare the abstract as correct. An abstract or report shall include all of the following:

(a) The name, address, and date of birth of the person charged or cited.

(b) The number of the person's operator's or chauffeur's license, if any.

(c) The date and nature of the violation.

(d) The type of vehicle driven at the time of the violation and, if the vehicle is a commercial motor vehicle, that vehicle's group designation 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 CFR 392.10 or 392.11, as adopted by section 1a of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11a.

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

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

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

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

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

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

(m) A violation listed as a disqualifying offense under the federal motor carrier safety regulations, 49 CFR 383.51.

(5) Beginning September 1, 2004, the clerk of the court shall also forward an abstract of the court record to the secretary of state if a person has pled guilty to, or offered a plea of admission in a juvenile proceeding for, a violation of section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to that section, and has had further proceedings deferred under that section. If the person is sentenced to a term of probation and terms and conditions of probation are fulfilled and the court discharges the individual and dismisses the proceedings, the court shall also report the dismissal to the secretary of state.

(6) As used in subsections (7) to (9), “felony in which a motor vehicle was used” means a felony during the commission of which the person operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

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

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

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

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

(7) If a person is charged with a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

“You are charged with the commission of a felony in which a motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319, your driver’s license shall be suspended by the secretary of state.”