

Act No. 343  
Public Acts of 1998  
Approved by the Governor  
October 16, 1998  
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STATE OF MICHIGAN  
89TH LEGISLATURE  
REGULAR SESSION OF 1998

**Introduced by Rep. Schauer**

**Reps. Baird, Banks, Basham, Birkholz, Bogardus, Brackenridge, Byl, Cassis, Crissman, Dalman, DeHart, DeVuyt, Dobb, Fitzgerald, Freeman, Gagliardi, Gernaat, Gire, Goschka, Gubow, Gustafson, Hammerstrom, Horton, Jansen, Jelinek, Jellema, Kelly, Law, Llewellyn, McBryde, Middaugh, Middleton, Richner, Rocca, Sanborn, Scranton, Sikkema, Thomas, Varga, Vaughn, Voorhees and Willard named co-sponsors**

## **ENROLLED HOUSE BILL No. 5952**

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 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 310d and 321a (MCL 257.310d and 257.321a), section 310d as amended by 1991 PA 99 and section 321a as amended by 1998 PA 68.

*The People of the State of Michigan enact:*

Sec. 310d. (1) A license issued under this act to a person not previously licensed in this or in another state shall be designated as probationary for 3 years after the date of issuance. During the first 12 months of probation, the license may be suspended or probationary terms and conditions may be imposed upon failure of the licensee to appear before a magistrate, as provided in this chapter, or upon conviction of the licensee or determination of the licensee's responsibility for a moving violation in this state. The period of suspension or the probationary terms and conditions shall not be for more than 12 months and shall be determined by the secretary of state at an examination of the driver by the secretary of state.

(2) Upon completion of the first 12 months of probation, the secretary of state may require a licensee to be reexamined by the secretary of state if the licensee's driving record contains any of the following:

(a) A conviction or civil infraction determination for a moving violation that was assessed 4 or more points as provided in section 320a.

(b) Three convictions or 3 civil infraction determinations, or a combination of convictions and civil infraction determinations that equals 3, for moving violations.

- (c) A total of 6 or more points as provided in section 320a.
  - (d) A conviction or civil infraction determination for a moving violation and an accident for which the official police report indicates the licensee had been drinking intoxicating liquor.
  - (e) A conviction or civil infraction determination for a moving violation and an accident for which the official police report indicates a moving violation on the part of the licensee.
  - (f) Three accidents for which the official police report indicates a moving violation on the part of the licensee.
  - (g) A suspension pursuant to section 625f.
- (3) The probationary period shall be extended beyond 3 years and the secretary of state may reexamine a licensee as provided in subsection (2) if any of the following occur and are recorded on the licensee's driving record during the last 10 months of the probationary period:
- (a) A moving violation resulting in a conviction or civil infraction determination.
  - (b) An accident for which the official police report indicates a moving violation on the part of the licensee.
  - (c) An accident for which the official police report indicates the licensee had been drinking intoxicating liquor.
  - (d) A license suspension for a reason other than a mental or physical disability.
- (4) The probationary period shall be extended pursuant to subsection (3) until the licensee completes 10 consecutive months without a moving violation, accident, or suspension enumerated in subsection (3).
- (5) Upon completion of a reexamination, the secretary of state may suspend or impose probationary terms and conditions on the license of a probationary licensee, except that a reexamination for subsection (4)(d), (e), or (f) shall not result in a license suspension or the imposition of probationary terms or conditions.
- (6) For 24 months immediately after a licensee's probationary period, the secretary of state may require the licensee to be reexamined by the secretary of state if the licensee's driver record has a total of 9 or more points, as provided in section 320a, imposed in a period of 2 years and if the licensee's record contains 1 or more of the following:
- (a) A conviction for a violation of section 625(1), (3), (4), (5), (6), or (7), former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1), (3), or (6), former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), (5), (6), or (7), former section 625(1) or (2), or former section 625b.
  - (b) A conviction for driving while visibly impaired due to consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.
  - (c) A suspension of the licensee's license pursuant to section 625f.
  - (d) An accident for which the official police report indicates a moving violation on the part of the licensee.
  - (e) An accident for which the official police report indicates the licensee had been drinking intoxicating liquor.
- (7) Upon completion of a reexamination under subsection (6), the secretary of state may suspend the license of the licensee, except that a reexamination for subsection (6)(d) or (e) shall not result in a license suspension or restriction.
- (8) If a licensee fails to appear for a reexamination scheduled by the secretary of state pursuant to this section, the licensee's license may be suspended immediately and remain suspended until the licensee appears for a reexamination by the secretary of state.
- (9) Notice of a reexamination required under this section shall be given by first-class mail to the last known address of the licensee.
- (10) For purposes of this section:
- (a) Upon conviction for a moving violation, the date of the arrest for the violation shall be used in determining whether the conviction occurred within the probationary period.
  - (b) Upon entry of a civil infraction determination for a moving violation, the date of issuance of a citation for a civil infraction shall be used in determining whether the civil infraction determination occurred within the probationary period.
  - (c) Information of a reexamination shall not be placed on a driver's record unless the secretary of state suspends a license or imposes probationary terms and conditions.
  - (d) A suspension shall be considered part of a driving record from the date the suspension is imposed until the suspension is terminated.
  - (e) The date of the official police report shall be used in determining whether a licensee was driving a motor vehicle involved in an accident for which the official police report indicates a moving violation on the part of the licensee or indicates the licensee had been drinking intoxicating liquor.

Sec. 321a. (1) A person who fails to answer a citation, or a notice to appear in court for a violation reportable to the secretary of state under section 732 or a local ordinance substantially corresponding to a violation of a law of this state

reportable to the secretary of state under section 732, or for any matter pending, or who fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both. A violation of this subsection or failure to answer a citation or notice to appear for a violation of section 33b(1) of former 1933 (Ex Sess) PA 8, section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to either of those sections shall not be considered a violation for any purpose under section 320a.

(2) Except as provided in subsection (3), 28 days or more after a person fails to answer a citation or notice to appear in court, or for any matter pending, or fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, the court shall give notice by mail at the last known address of the person that if the person fails to appear or fails to comply with the order or judgment within 14 days after the notice is issued, the secretary of state shall suspend the person's operator's or chauffeur's license. If the person fails to appear or fails to comply with the order or judgment within the 14-day period, the court shall, within 14 days, inform the secretary of state, who shall immediately suspend the license of the person. The secretary of state shall immediately notify the person of the suspension by regular mail at the person's last known address.

(3) If the person is charged with, or convicted of, a violation of section 625 or a local ordinance substantially corresponding to section 625(1), (2), (3), or (6) and the person fails to answer a citation or a notice to appear in court, or for any matter pending, or fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim rights assessments, the court shall immediately give notice by first-class mail sent to the person's last known address that if the person fails to appear within 7 days after the notice is issued, or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim rights assessments, within 14 days after the notice is issued, the secretary of state shall suspend the person's operator's or chauffeur's license. If the person fails to appear within the 7-day period, or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim rights assessments, within the 14-day period, the court shall immediately inform the secretary of state who shall immediately suspend the person's operator's or chauffeur's license and notify the person of the suspension by first-class mail sent to the person's last known address.

(4) If the person is charged with, or convicted of, a violation of section 33b(1) of former 1933 (Ex Sess) PA 8, section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, section 624a, section 624b, or a local ordinance substantially corresponding to those sections and the person fails to answer a citation or a notice to appear in court issued pursuant to section 33b of former 1933 (Ex Sess) PA 8, section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, section 624a, section 624b, or a local ordinance substantially corresponding to those sections or fails to comply with an order or judgment of the court issued pursuant to section 33b of former 1933 (Ex Sess) PA 8, section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, section 624a, section 624b, or a local ordinance substantially corresponding to those sections including, but not limited to, paying all fines and costs, the court shall immediately give notice by first-class mail sent to the person's last known address that if the person fails to appear within 7 days after the notice is issued, or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines and costs, within 14 days after the notice is issued, the secretary of state shall suspend the person's operator's or chauffeur's license. If the person fails to appear within the 7-day period, or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines and costs, within the 14-day period, the court shall immediately inform the secretary of state who shall immediately suspend the person's operator's or chauffeur's license and notify the person of the suspension by first-class mail sent to the person's last known address.

(5) A suspension imposed under subsection (2) or (3) remains in effect until both of the following occur:

(a) The secretary of state is notified by each court in which the person failed to answer a citation or notice to appear or failed to pay a fine or cost that the person has answered that citation or notice to appear or paid that fine or cost.

(b) The person has paid to the court a \$25.00 driver license clearance fee for each failure to answer a citation or failure to pay a fine or cost.

(6) The court shall not notify the secretary of state, and the secretary of state shall not suspend the person's license, if the person fails to appear in response to a citation issued for, or fails to comply with an order or judgment involving 1 or more of the following infractions:

(a) The parking or standing of a vehicle.

(b) A pedestrian, passenger, or bicycle violation, other than a violation of section 33b(1) or (2) of former 1933 (Ex Sess) PA 8, section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, section 624a or 624b, or a local ordinance substantially corresponding to section 33b(1) or (2) of former 1933 (Ex Sess) PA 8, section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b.

(7) The court may notify a person who has done either of the following, that if the person does not appear within 10 days after the notice is issued, the court will inform the secretary of state of the person's failure to appear:

(a) Failed to answer 2 or more parking violation notices or citations for violating a provision of this act or an ordinance substantially corresponding to a provision of this act pertaining to parking for persons with disabilities.

(b) Failed to answer 6 or more parking violation notices or citations regarding illegal parking.

(8) The secretary of state, upon being informed of the failure of a person to appear or comply as provided in subsection (7), shall not issue a license to the person or renew a license for the person until both of the following occur:

(a) The court informs the secretary of state that the person has resolved all outstanding matters regarding the notices or citations.

(b) The person has paid to the court a \$25.00 driver license clearance fee. If the court determines that the person is responsible for only 1 parking violation under subsection (7)(a) or less than 6 parking violations under subsection (7)(b) for which the person's license was not issued or renewed under this subsection, the court may waive payment of the fee.

(9) Not less than 28 days after a person fails to appear in response to a citation issued for, or fails to comply with an order or judgment involving, a state civil infraction described in chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, the court shall give notice by ordinary mail, addressed to the person's last known address, that if the person fails to appear or fails to comply with the order or judgment described in this subsection within 14 days after the notice is issued, the court will give to the secretary of state notice of that failure. Upon receiving notice of that failure, the secretary of state shall not issue or renew an operator's or chauffeur's license for the person until both of the following occur:

(a) The court informs the secretary of state that the person has resolved all outstanding matters regarding each notice or citation.

(b) The person has paid to the court a \$25.00 driver license clearance fee. If the court determines that the person is not responsible for any violation for which the person's license was not issued or renewed under this subsection, the court shall waive the fee.

(10) For the purposes of subsections (5)(a), (8)(a), and (9)(a), the court shall give to the person a copy of the information being transmitted to the secretary of state. Upon showing that copy, the person shall not be arrested or issued a citation for driving on a suspended license, on an expired license, or without a license on the basis of any matter resolved under subsection (5)(a), (8)(a), or (9)(a), even if the information being sent to the secretary of state has not yet been received or recorded by the department.

(11) Six dollars of each fee received under subsection (5)(b), (8)(b), or (9)(b) shall be transmitted by the court to the secretary of state on a monthly basis. The funds received by the secretary of state under this subsection shall be deposited in the state general fund and shall be used to defray the expenses of the secretary of state in processing the suspension and reinstatement of driver licenses under this section.

(12) Section 819 does not apply to a reinstatement fee collected for an operator's or chauffeur's license that is not issued or renewed under section 8827 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8827.

Enacting section 1. This amendatory act takes effect October 1, 1999.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 89th Legislature are enacted into law:

(a) Senate Bill No. 268.

(b) Senate Bill No. 269.

(c) Senate Bill No. 625.

(d) Senate Bill No. 627.

(e) Senate Bill No. 869.

(f) Senate Bill No. 870.

(g) Senate Bill No. 953.

(h) House Bill No. 4210.

(i) House Bill No. 4576.

(j) House Bill No. 4959.

(k) House Bill No. 4960.

(l) House Bill No. 4961.

(m) House Bill No. 5122.

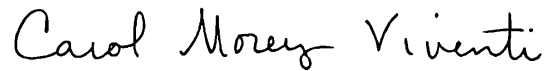
(n) House Bill No. 5123.

(o) House Bill No. 5951.

- (p) House Bill No. 5953.
- (q) House Bill No. 5954.
- (r) House Bill No. 5955.
- (s) House Bill No. 5956.



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Clerk of the House of Representatives.



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Secretary of the Senate.

Approved \_\_\_\_\_

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Governor.