

Act No. 604
Public Acts of 2018
Approved by the Governor
December 28, 2018
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Senator Kowall

ENROLLED SENATE BILL No. 1239

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 manufacturers, the manufacturers of certain devices, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to regulate and certify the manufacturers of certain devices; to provide for approval and certification of installers and servicers of certain devices; 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 section 307 (MCL 257.307), as amended by 2018 PA 177.

The People of the State of Michigan enact:

Sec. 307. (1) If an applicant for an operator’s license or chauffeur’s license to operate a noncommercial motor vehicle is a citizen of the United States, the applicant shall supply a photographic identity document, a birth certificate, or other sufficient documents as the secretary of state may require, to verify the identity and citizenship of the applicant. If an applicant for an operator’s or chauffeur’s license is not a citizen of the United States, the applicant shall supply a photographic identity document and other sufficient documents to verify the identity of the applicant and the applicant’s legal presence in the United States under subdivision (b). The documents required under this subsection must include the applicant’s full legal name, date of birth, and address and residency and demonstrate that the applicant is a citizen of the United States or is legally present in the United States. If the applicant’s full legal name differs from the name of the applicant that appears on a document presented under this subsection, the applicant shall present documents to verify his or her current full legal name. The secretary of state shall accept as 1 of the required identification documents an identification card issued by the department of corrections to prisoners who are placed on parole or released from a correctional facility, containing the prisoner’s legal name, photograph, and other information identifying the prisoner as provided in section 37(4) of the corrections code of 1953, 1953 PA 232, MCL 791.237. An application for an operator’s or chauffeur’s license must be made in a manner prescribed by the secretary of state and must contain all of the following:

(a) The applicant’s full legal name, date of birth, residence address, height, sex, eye color, signature, intent to make an anatomical gift, other information required or permitted on the license under this chapter, and, only to the extent

required to comply with federal law, the applicant's Social Security number. The applicant may provide a mailing address if the applicant receives mail at an address different from his or her residence address.

(b) If the applicant is not a citizen of the United States, the applicant shall provide, and the department shall verify, documents demonstrating his or her legal presence in the United States. Nothing in this act shall obligate or be construed to obligate this state to comply with title II of the real ID act of 2005, Public Law 109-13. The secretary of state may adopt rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as are necessary for the administration of this subdivision. A determination by the secretary of state that an applicant is not legally present in the United States may be appealed under section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631. The secretary of state shall not issue an operator's license or a chauffeur's license to an applicant described in this subdivision for a term that exceeds the duration of the applicant's legal presence in the United States.

(c) The following notice must be included to inform the applicant that under sections 509o and 509r of the Michigan election law, 1954 PA 116, MCL 168.509o and 168.509r; the secretary of state is required to use the residence address provided on this application as the applicant's residence address on the qualified voter file for voter registration and voting:

"NOTICE: Michigan law requires that the same address be used for voter registration and driver license purposes. Therefore, if the residence address you provide in this application differs from your voter registration address as it appears on the qualified voter file, the secretary of state will automatically change your voter registration to match the residence address on this application, after which your voter registration at your former address will no longer be valid for voting purposes. A new voter registration card, containing the information of your polling place, will be provided to you by the clerk of the jurisdiction where your residence address is located."

(d) For an original or renewal operator's or chauffeur's license with a vehicle group designation or indorsement, the names of all states where the applicant has been licensed to drive any type of motor vehicle during the previous 10 years.

(e) For an operator's or chauffeur's license with a vehicle group designation or indorsement, the following certifications by the applicant:

(i) The applicant meets the applicable federal driver qualification requirements under 49 CFR parts 383 and 391 or meets the applicable qualifications of the department of state police under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25.

(ii) The vehicle in which the applicant will take the driving skills tests is representative of the type of vehicle the applicant operates or intends to operate.

(iii) The applicant is not subject to disqualification by the United States Secretary of Transportation, or a suspension, revocation, or cancellation under any state law for conviction of an offense described in section 312f or 319b.

(iv) The applicant does not have a driver's license from more than 1 state or jurisdiction.

(f) An applicant for an operator's or chauffeur's license with a vehicle group designation and a hazardous material indorsement shall provide his or her fingerprints as prescribed by state and federal law.

(g) For automatic voter registration purposes under section 493a of the Michigan election law, 1954 PA 116, MCL 168.493a, a space for the applicant to indicate on the application or change of address application whether he or she is a citizen of the United States.

(h) A space to allow the applicant to indicate that the applicant declines to use the application as a voter registration application.

(2) An applicant for an operator's or chauffeur's license may have his or her image and signature captured or reproduced when the application for the license is made. The secretary of state shall acquire equipment purchased or leased under this section under standard purchasing procedures of the department of technology, management, and budget based on standards and specifications established by the secretary of state. The secretary of state shall not purchase or lease equipment until an appropriation for the equipment has been made by the legislature. A digital photographic image and signature captured under this section must appear on the applicant's operator's license or chauffeur's license. A person's digital photographic image and signature shall be used as follows:

(a) By a federal, state, or local governmental agency for a law enforcement purpose authorized by law.

(b) By the secretary of state for a use specifically authorized by law.

(c) By the secretary of state for forwarding to the department of state police the images of persons required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, upon the department of state police providing the secretary of state an updated list of the names of those persons.

(d) By the secretary of state for forwarding to the department of state police as provided in section 5c of 1927 PA 372, MCL 28.425c.

(e) By the secretary of state for forwarding to the department of licensing and regulatory affairs the images of applicants for an official state registry identification card issued under section 6 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26426, if the department of licensing and regulatory affairs promulgates rules requiring a photograph as a design element for an official state registry identification card.

(f) As necessary to comply with a law of this state or of the United States.

(3) An application must contain a signature or verification and certification by the applicant, as determined by the secretary of state, and must be accompanied by the proper fee. The secretary of state shall collect the application fee with the application. The secretary of state shall refund the application fee to the applicant if the license applied for is denied, but shall not refund the fee to an applicant who fails to complete the examination requirements of the secretary of state within 90 days after the date of application for a license.

(4) In conjunction with the application for an original or renewal operator's license or chauffeur's license, the secretary of state shall do all of the following:

(a) If the applicant is not a participant in the anatomical gift donor registry program, specifically inquire, either orally or in writing, whether the applicant wishes to participate in the anatomical gift donor registry program under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123. If the secretary of state or an employee of the secretary of state fails to inquire whether an applicant wishes to participate in the anatomical gift donor registry program as required by this subdivision, neither the secretary of state nor the employee is civilly or criminally liable for the failure to make the inquiry.

(b) Provide the applicant with all of the following:

(i) Information explaining the applicant's right to make an anatomical gift in the event of death in accordance with section 310.

(ii) Information describing the anatomical gift donor registry program under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123. The information required under this subparagraph includes the address and telephone number of Michigan's federally designated organ procurement organization as that term is defined in section 10102 of the public health code, 1978 PA 368, MCL 333.10102, or its successor organization.

(iii) Information giving the applicant the opportunity to be placed on the donor registry described in subparagraph (ii).

(c) Provide the applicant with the opportunity to specify on his or her operator's or chauffeur's license that he or she is willing to make an anatomical gift in the event of death in accordance with section 310.

(d) Inform the applicant that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the donor registry described in subdivision (b)(ii), the secretary of state will mark the applicant's record for the donor registry.

(5) The secretary of state may fulfill the requirements of subsection (4) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for an operator's or chauffeur's license renewal or the issuance of an operator's or chauffeur's license.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office, or inquiring orally.

(c) Through electronic information transmittals for operator's and chauffeur's licenses processed by electronic means.

(6) The secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the donor registry described in subsection (4)(b)(ii). Information about an applicant's indication of a willingness to have his or her name placed on the donor registry that is obtained by the secretary of state under subsection (4) and forwarded under subsection (14) is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243. The secretary of state is not required to maintain a record of an individual who does not indicate a willingness to have his or her name placed on the donor registry described in subsection (4)(b)(ii) or an individual who does not respond to an inquiry under subsection (4)(a).

(7) If an application is received from a person previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record and other available information from the National Driver Register. When received, the driving record and other available information become a part of the driver's record in this state.

(8) If a person applies for a commercial learner's permit for an original vehicle group designation or indorsement to operate a commercial motor vehicle, the secretary of state may verify the person's identity, may require proof of Michigan domicile under 49 CFR 383.5, and may verify the person's proof of United States citizenship or proof of lawful permanent residency as required under 49 CFR 383.71 and 383.73, if that information is not on the person's Michigan driving record. If a person applies for a renewal of an operator's or chauffeur's license to operate a commercial motor vehicle, the secretary of state may verify the person's identity, may require proof of Michigan domicile under 49 CFR 383.5, and may verify the person's proof of citizenship or lawful permanent residency under 49 CFR 383.71 and 383.73, if that information is not on the person's Michigan driving record. If a person applies for an upgrade of a vehicle group designation or indorsement, the secretary of state may verify the person's identity, may require proof of Michigan domicile under 49 CFR 383.5, and may verify the person's proof of citizenship or lawful permanent residency under

49 CFR 383.71 and 383.73, if that information is not on the person's Michigan driving record. The secretary of state shall request the person's complete driving record from all states where the applicant was previously licensed to drive any type of motor vehicle over the last 10 years before issuing a vehicle group designation or indorsement to the applicant. If the applicant does not hold a valid commercial motor vehicle driver license from a state where he or she was licensed in the last 10 years, this complete driving record request must be made not earlier than 24 hours before the secretary of state issues the applicant a vehicle group designation or indorsement. For all other drivers, this request must be made not earlier than 10 days before the secretary of state issues the applicant a vehicle group designation or indorsement. If the application is for the renewal of a vehicle group designation or indorsement, and if the secretary of state enters on the person's driving record maintained under section 204a a notation that the request was made and the date of the request, the secretary of state is required to request the applicant's complete driving record from other states only once under this section. The secretary of state shall also check the applicant's driving record with the National Driver Register and the federal Commercial Driver's License Information System before issuing that group designation or indorsement.

(9) Except for a vehicle group designation or indorsement or as provided in this subsection or section 314(5), the secretary of state may issue a renewal operator's or chauffeur's license for 1 additional 4-year period or until the person is no longer determined to be legally present under this section by mail or by other methods prescribed by the secretary of state. The secretary of state may check the applicant's driving record through the National Driver Register and the Commercial Driver's License Information System before issuing a license under this section. The secretary of state shall issue a renewal license only in person if the person is a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card. If a license is renewed by mail or by other method, the secretary of state shall issue evidence of renewal to indicate the date the license expires in the future. The department of state police shall provide to the secretary of state updated lists of persons required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(10) Upon request, the secretary of state shall provide an information manual to an applicant explaining how to obtain a vehicle group designation or indorsement. The manual must contain the information required under 49 CFR part 383.

(11) The secretary of state shall not disclose a Social Security number obtained under subsection (1) to another person except for use for 1 or more of the following purposes:

(a) Compliance with 49 USC 31301 to 31317 and regulations and state law and rules related to this chapter.

(b) To carry out the purposes of section 466(a) of the social security act, 42 USC 666, in connection with matters relating to paternity, child support, or overdue child support.

(c) To check an applicant's driving record through the National Driver Register and the Commercial Driver's License Information System when issuing a license under this act.

(d) With the department of health and human services, for comparison with vital records maintained by the department of health and human services under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899.

(e) As otherwise required by law.

(12) The secretary of state shall not display a person's Social Security number on the person's operator's or chauffeur's license.

(13) A requirement under this section to include a Social Security number on an application does not apply to an applicant who demonstrates that he or she is exempt under law from obtaining a Social Security number.

(14) As required in section 10120 of the public health code, 1978 PA 368, MCL 333.10120, the secretary of state shall maintain the donor registry in a manner that provides electronic access, including, but not limited to, the transfer of data to this state's federally designated organ procurement organization or its successor organization, tissue banks, and eye banks, in a manner that complies with that section.

(15) The secretary of state, with the approval of the state administrative board created under 1921 PA 2, MCL 17.1 to 17.3, may enter into agreements with the United States government to verify whether an applicant for an operator's license or a chauffeur's license under this section who is not a citizen of the United States is authorized under federal law to be present in the United States.

(16) The secretary of state shall not issue an operator's license or a chauffeur's license to a person holding an operator's license or chauffeur's license issued by another state without confirmation that the person is terminating or has terminated the operator's license or chauffeur's license issued by the other state.

(17) The secretary of state shall do all of the following:

(a) Ensure the physical security of locations where operator's licenses and chauffeur's licenses are produced and the security of document materials and papers from which operator's licenses and chauffeur's licenses are produced.

(b) Subject all persons authorized to manufacture or produce operator's licenses or chauffeur's licenses and all persons who have the ability to affect the identity information that appears on operator's licenses or chauffeur's licenses to appropriate security clearance requirements. The security requirements of this subdivision and subdivision (a) may require that licenses be manufactured or produced in this state.

(c) Provide fraudulent document recognition programs to department of state employees engaged in the issuance of operator's licenses and chauffeur's licenses.

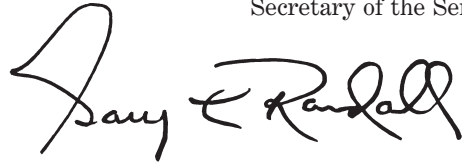
(18) The secretary of state shall have electronic access to prisoner information maintained by the department of corrections for the purpose of verifying the identity of a prisoner who applies for an operator's or chauffeur's license under subsection (1).

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1238 of the 99th Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor