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Senate Bill 574 (as introduced 10-10-19)
Sponsor: Senator Peter J. Lucido
Committee: Transportation and Infrastructure

Date Completed: 3-4-20

CONTENT

The bill would amend the Michigan Vehicle Code to do the following:

- **Modify a provision related to a court's review of a determination resulting in a denial, suspension, restriction, or revocation of a driver license to specify that a court, instead of determining whether the petitioner is eligible for full or restricted driving privileges, could grant restricted driving privileges.**
- **Eliminate various provisions related to a court's determination that a petitioner is eligible for restricted driving privileges, among other things.**

Under the Code, an individual aggrieved by a final determination of the SOS denying the individual an operator's or chauffer's license, a vehicle group designation, or an indorsement on a license or revoking, suspending, or restricting an operator's or chauffer's license, vehicle group designation, or an indorsement may petition for a review of the determination in either the circuit court in the county where the individual was arrested if certain circumstances were met or in the circuit court in the individual's county of residence.

Except as otherwise provided, in reviewing a determination resulting in a denial, suspension, restriction, or revocation, the court may determine that the petitioner is eligible for full driving privileges or, if the petitioner is subject to revocation under the Code, may determine that the petitioner is eligible for restricted privileges. The bill would delete this provision and, instead, allow the court to grant only restricted driving privileges.

The Code requires the court to set aside the SOS's determination if, in determining whether a petitioner is eligible for *full driving privileges*, the petitioner's substantial rights have been prejudiced because the determination is any of the following:

- In violation of the Constitution of the United States, the State Constitution of 1963, or a statute.
- In excess of the Secretary of State's statutory authority or jurisdiction.
- Made upon unlawful procedure resulting in material prejudice to the petitioner.
- Not supported by competent, material, and substantial evidence on the whole record.
- Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.
- Affected by other substantial and material error of law.

Under the bill, the court would have to set aside the SOS's determination only if the petitioner's substantial rights had been prejudiced because the determination met the circumstances described above.

The Code also requires the court to set aside the SOS's determination if in determining whether a petitioner is eligible for review or revocation or denial under the Code, or whether a petitioner is eligible for *restricted driving privileges*, if the petitioner's substantial rights have been prejudiced as described above and all of the following are satisfied:

- The revocation or denial occurred at least one year after the petitioner's license was revoked or denied, or, if the petitioner's license was previously revoked or denied within the seven years preceding the most recent revocation or denial, at least five years after the most recent revocation or denial, whichever is later.
- The court finds that the petitioner meets the department's requirements under the rules it has promulgated under the Administrative Procedures Act.
- If the revocation or denial was for certain violations of the Code, the petitioner rebuts by clear and convincing evidence the presumption that he or she is a habitual offender, and establishes to the court's satisfaction that he or she is likely to adhere to any requirements imposed by the court.

The bill would delete this provision.

The bill also would eliminate various provisions that pertain to the court's issuing orders related to restricted driving privileges, notifying the petitioner's employer of his or her obligation to use an ignition interlock device, and prohibiting the SOS from issuing a restricted license until the petitioner has complied with applicable State or Federal law.

MCL 257.323

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.